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Volume IX

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 38

NATIONAL LABOR RELATIONS BOARD, PETITIONER

VS.

DONNELLY GARMENT COMPANY, DONNELLY GARMENT WORKERS' UNION AND INTERNATIONAL LADIES' GARMENT WORKERS' UNION

No. 39

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, PETITIONER

VS.

DONNELLY GARMENT COMPANY, DONNELLY GARMENT WORKERS' UNION AND NATIONAL LABOR RELATIONS BOARD

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITIONS FOR CERTIORARI FILED JANUARY 29, 1948.
CERTIORARI GRANTED APRIL 22, 1948

VOLUME IX.
RECORD.

United States Circuit Court of Appeals
EIGHTH CIRCUIT.

No. 12,641

DONNELLY GARMENT COMPANY, A CORPORA-
TION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD,
RESPONDENT.

DONNELLY GARMENT WORKERS' UNION,
INTERVENER.

INTERNATIONAL LADIES' GARMENT WORKERS'
UNION, INTERVENER.

ON PETITION FOR REVIEW OF ORDER OF NATIONAL LABOR
RELATIONS BOARD.

FILED AUGUST 5, 1943.

Testimony and Exhibits in Case No. 12,641.

United States Circuit Court of Appeals
EIGHTH CIRCUIT.

No. 12,641

DONNELLY GARMENT COMPANY, A CORPORATION, PETITIONER,

VS.

**NATIONAL LABOR RELATIONS BOARD,
RESPONDENT.**

**DONNELLY GARMENT WORKERS' UNION,
INTERVENER.**

**INTERNATIONAL LADIES' GARMENT WORKERS'
UNION, INTERVENER.**

**ON PETITION FOR REVIEW OF ORDER OF NATIONAL LABOR
RELATIONS BOARD.**

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Q. During that period of time, will you state whether or not an operator who had a complaint about the kind of work she was doing would have that complaint acted upon by Mr. Baty?

A. Yes, she would go to Mr. Baty and he would take care of it.

Q. Did the instructor have any authority, that you [fol. 5240] could observe, to take care of complaints?

A. No, she didn't have.

Q. Now, after the Donnelly Garment Workers' Union was formed, did the union handle complaints for operators?

A. Yes, they went to the union about the complaints then.

Recross-Examination.

By Mr. Lane:

Q. Mrs. Mudd, was there ever any time when, so far as you know, an instructor said to you and the girls in your section that you were to go to a meeting as a body or as a section and stay together, and when that meeting was over to return to your section and resume work?

A. No, I never heard anybody say anything like that.

Q. Did that ever occur, so far as you know?

A. No, not as far as I know.

By Miss Weyand:

Q. Did you ever see Mr. Baty discipline a girl?

A. No, I don't know as I ever saw him.

Q. Did you know anything about sewing sections in 1935?

[fol. 5241] A. I never did sew in them. I don't know as I could say I knew anything about them.

Q. Did you have any information as to what any instructor's authority was in 1935 or theretofore?

A. I don't think I did.

ETHEL RIEGEL, a witness called by and on behalf of respondent Donnelly Garment Company, being first duly sworn, was examined and testified as follows:

Direct Examination.

By Mr. Ingraham:

Q. Where do you live, Mrs. Riegel?

A. At the present time I live at 4321 Walnut.

Q. Where are you employed?

A. Donnelly Garment Company.

Q. How long have you been employed at the Donnelly Garment Company?

[fol. 5242] A. I went there in November, 1928.

Q. In what capacity are you employed?

A. I am a power machine operator.

Q. Do you work on any special machines?

A. Yes, I have run two or three special machines; straight sewers, binder, and pinkers, I think, is classified as a special machine, and double-stitcher. I think that is all of the special machines.

Q. Were you working at the Donnelly Garment Company during the months of March and April, 1937?

A. I was.

Q. Are you a member of the Donnelly Garment Workers' Union? A. I am.

Q. When did you join the Donnelly Garment Workers' Union?

A. When it was first organized, in April, I think, 1937.

Q. Do you recall that that was on or about April 27, 1937? A. Yes, I think that's the date.

Trial Examiner Batten: Q. You joined at the first meeting?

A. The first meeting, where it was organized.

By Mr. Ingraham:

Q. Did anybody representing the management discuss with you prior to that meeting whether or not a union [fol. 5243] should be formed? A. No.

Q. Did any official or executive or anybody representing the management request you to go to that meeting?

A. No.

Q. Did you attend that meeting of your own free will?

A. I did.

Q. Do you recall the time of day that the meeting occurred?

A. Well, as near as I can remember, it was around 5 or 5:10 in the evening, after work. I don't remember. It was between 5 and 5:15, I think.

Q. Do you recall where the meeting was held?

A. It was on the second or third floor, but I wouldn't be positive. It was a vacant floor.

Q. Prior to the meeting had there been any strikes going on at other garment plants in Kansas City?

A. Yes, there had.

Q. Do you recall what plants had strikes?

A. Well, as I remember, it was Gordon, Gernes, and Missouri, I think.

Trial Examiner Batten: Those are three different plants?

Mr. Ingraham: Yes.

Mr. Langsdale: All in one building.

Trial Examiner Batten: The reason, I say that is, we have used those three names here so much, someone might [fol. 5244] get the impression that it is a firm name. I wanted the record to indicate that they are three separate companies.

The Witness: I meant three separate companies.

Trial Examiner Batten: Yes, I know what you meant, but I wanted it clear for someone who might be reading the record.

By Mr. Ingraham:

Q. I will hand you respondent's exhibits 16 and 18, through 38, and ask you if you will state what newspaper articles contained in those exhibits you read.

I believe on the first exhibit, No. 16, there just appears some pictures at the bottom of the front page of the Kansas City Times of March 18. Do you recall seeing those pictures?

A. I remember the picture in this one (indicating)—exhibit 16, is that right?—in the Kansas City Times.

Q. Now, will you please go through these exhibits, beginning with exhibit No. 18, through 38, and state whether or not you read the articles?

A. I don't think I read the ones that appeared in the Post, unless it was just one or two. I didn't take the Post at that time.

A. I didn't read 18, as I remember.

[fol. 5245] By Mr. Lane:

Q. Did, or did not?

A. Did not.

And I don't remember reading 19, or 20 either, as I recall it.

I don't think I saw the pictures on exhibit 21; I don't remember it.

I didn't read 22 or 23.

I think I heard 24 discussed, but I don't think I read it. I think the girls I worked with—I heard them talking about it. It seems like I remember that.

I think I read 25. I read 26, 27, 28, 29, and 30.

I don't remember reading 31.

I didn't read 32.

I think I heard 33 discussed—talked about—but I don't think I read it.

34, I don't think I read that.

I don't remember reading 36. I might have, but I don't just remember whether I did or not.

Mr. Reed: Is that 36 or 35?

A. I remember this picture on the front, so I believe I did.

Trial Examiner Batten: What is that one, Mrs. Riegel?

[fol. 5246], A: No. 36.

By Mr. Ingraham:

Q. Did you skip 35, this page (indicating)?

A. Yes, I skipped that. I read that the first thing when I got to work that morning. I remember that one.

I read 37. I remember reading the headlines.

I read part of 38. I don't remember whether I read all of it or not. I don't think I read all of it.

Q. State what effect, if any, the reading of the articles that had reference to the strikes at the Missouri, Gernes, and Gordon plants had on you.

A. Well, to me they were disgusting; and then, also, they made me just a little bit scared that they might come over to our place sometime.

Q. Was there a general discussion of these articles by the employees at the plant?

A. Well, with the ones I worked around, I remember clearly that we did.

Q. What effect, if any, did these articles have on other employees, so far as you could observe?

A. Well, their attitude—the ones who talked to me, they felt just about like I did.

Q. Did you personally see any of the violence at the Gernes, Gordon, and Missouri plants?

A. Well, not over close. I rode down Main Street hill [fol. 5247] there, coming to work, and from work, and I could see crowds over there, but I couldn't distinguish anything or anyone.

Q. Now, at the meeting of April 27 when the union was formed, state whether or not there was any discussion at that meeting of what was going on at these other plants or had been going on, at the Gernes, Gordon, and Missouri plants.

A. Well, yes; that was the way I remember it. It was the general topic—most of it—we talked about. Some had seen them. They talked about different things about it.

Q. Did you vote to form the Donnelly Garment Workers' Union?

A. I made the motion, as I remember it, to form the Donnelly Garment Workers' Union.

Q. Will you state why you voted to form the Donnelly Garment Workers' Union? A. Why I voted?

Q. Yes. What were your reasons at the time, if you recall?

A. Well, I didn't want to belong to the I. L. G. W. U.—didn't have any desire or intention to, and I thought if we had our own plant union we would be a stronger body as a whole, to keep together, and we wouldn't have any such chance of being forced into anything like that—I didn't think they could.

Q. Why didn't you want to belong to the I. L. G. W. U.?

A. Well, I just couldn't see myself belonging to an organization that carried on that violence and had that [fol. 5248] attitude—trying to make people do things they didn't want to. I just couldn't do it, that's all. I didn't believe in it and I didn't want to belong to it.

Q. Did you vote in favor of forming the Donnelly Garment Workers' Union because of any suggestion or discussion on the part of anybody representing the management? A. No, I didn't.

By Mr. Ingraham:

Q. Did you have any fear that if you did not vote in favor of forming the Donnelly Garment Workers' Union the company would penalize you in some way?

A. No, I didn't have any fear at all that way.

Q. Did any official, executive, or anyone representing the management discuss, to your knowledge, with any other employees the desirability of forming the Donnelly Garment Workers' Union?

A. I never heard any discussions of that nature, no.

Q. Did you join the Donnelly Garment Workers' Union of your own free will? A. I did.

Q. And have you remained a member, of your own free will? A. I have.

Q. I believe you stated that you read the article that [fol. 5249] appeared in the Kansas City Star on March 17, 1937, which is contained in respondent's exhibit No. 27. The article is entitled "Sitters Block a Door."

A. Yes, I think I stated I did.

Q. And I believe you stated you noticed the pictures that are contained on the front page of the Kansas City Times for March 18. This is respondent's exhibit No. 16 (indicating).

A. Yes, I remember seeing those pictures.

Q. Now, on or about that time was there a meeting of employees held—on or about March 17 or 18?

A. Yes, there was.

Q. Did these articles which had appeared in the paper prior to the time of the meeting have anything to do with the holding of the meeting; do you know?

A. Yes, I think they did. I know I had—

A. (Continuing) I know I had seen the articles, and it was my idea that that caused the meeting to be held.

By Mr. Ingraham:

Q. State the purpose of the meeting, if you know.

A. As I remember, it was to see what we could do about securing legal counsel to help us out—to tell us anything that could be done to protect ourselves, as I remember it.

[fol. 5250] Q. Was there a general discussion among the employees about taking some action to protect yourselves from the violence? A. Yes, there was.

Q. Was there a general discussion that the International was going to use the same kind of violence against the Donnelly employees that was being used in the strikes at the Gordon, Gernes, and Missouri plants?

A. Yes. That was discussed, that it would be worse for us, as I got it, than it was at the other plants.

Q. Had other employees at the Donnelly plant personally seen the violence? A. Some of them had.

Q. Had any threats been made against the employees of the Donnelly Company by the I. L. G. W. U.?

A. I think some of them stated they had been threatened. I never was.

Q. Did any officer, executive, or anyone representing the management discuss with you the holding of this meeting?

A. No, not that I ever recall, as long as I was there.

Q. Did you go to the meeting of your own free will?

A. I did.

Q. Did any officer, executive, or anyone representing the management suggest or direct that you go to the meeting? A. No.

Q. Did you feel that you would be penalized by the [fol. 5251] company if you did not go to the meeting?

A. No, I didn't.

Q. Do you recall whether or not Mrs. Reed appeared at that meeting? A. Yes, she did.

Q. Do you recall how she happened to come to the meeting?

A. Well, the way I recall it, someone suggested that Mrs. Reed come down to talk to us, and someone went out after her, and she came back in; I don't know who did it, but I remember seeing her there.

Q. Did Mrs. Reed make a talk? A. Yes, she did.

Q. Did Mrs. Reed say that she would close the plant if it was unionized? A. I didn't hear her say that.

Q. Did Mrs. Reed say she was not going to let Mr. Dubinsky tell her how to run her business?

A. I didn't hear her say that.

Q. Did Mrs. Reed make any statement with reference to employees joining or not joining any labor organization?

A. Well, the way I recall it, she told us we could do as we pleased, but she wouldn't permit Dubinsky to force her employees to join the union or do anything against their will—that we could make up our own minds.

Q. Did she mention anything about busses?

[fol. 5252] A. Yes, busses were discussed. I don't know whether someone asked her about it, but she told us she would try to secure busses. I know it was talked over and busses were provided later, and I rode the busses, but I don't just remember how it came up at that meeting—just what started it.

Q. Did Mrs. Reed read a letter from the union, the I. L. G. W. U., to the company, at the meeting?

A. I don't remember hearing any letter read.

Q. Do you recall whether or not the I. L. G. W. U. had circulated a pamphlet prior to this meeting? Do you have any recollection of that? A. Prior to the meeting?

Q. Yes.

A. Well, I don't recall just whether they had or hadn't at that time.

Q. I will hand you respondent's exhibit No. 41 and ask you if you recall that the I. L. G. W. U. had people in front of the plant handing out circulars like this exhibit.

A. I don't know whether I read that or heard the girls talk about it; I couldn't say positively which. I heard about

it, but I don't remember whether I read the pamphlet or not.

Q. Do you recall that the pamphlet was circulated by the I. L. G. W. U. at the plant, or handed out by the I. L. G. W. U. close to the plant?

A. That particular pamphlet?

[fol. 5253] Q. Yes.

A. Well, I either read it or discussed it, so I guess it was handed out there.

Trial Examiner Batten: The question is, do you remember whether it was handed out there? Was one handed to you?

The Witness: Not that I recall. It wasn't handed directly to me.

By Mr. Ingraham:

Q. Did the employees at the March 18 meeting appoint a committee to investigate what protection they could obtain? A. Yes, they did.

Q. Do you recall who was on the committee?

A. Yes, I do. It was Miss Todd, Hobart Atherton, and Sally Ormsby.

Q. Did you feel that you would be penalized by the management if you did not attend that meeting?

A. No, I didn't.

Q. Now, after the meeting of March 18 and prior to the meeting of April 27, when the union was formed, did the employees hold any meeting?

A. Yes; we had another meeting to hear the report of our committee.

Q. Do you know when that meeting took place?

A. Well, the latter part of March. I don't know what date.

Q. By the way, with reference to the meeting of March [fol. 5254] 18, what time of day was that meeting held?

A. Well, between 5 and 5:15 in the evening, after work.

Q. Do you recall where it was held?

A. Well, the second or third floor; they were both vacant at that time. I don't know. I couldn't say positively which one.

Q. Now, this meeting you have just referred to the latter part of March, do you recall what occurred at that meeting?

A. Well, yes. We had a report of the committee and they said they had seen Mr. Tyler and talked to him and he would require a retainer's fee. And I know it was discussed at that meeting, how would we raise the money for this retainer's fee? I think it was \$500. I don't remember all of the discussion about how the money would be raised, but I remember it came up and they said for each to donate 50 cents.

Q. Did you donate 50 cents? A. I did.

Q. Do you recall when you made the donation?

A. I threw mine up on the platform that evening.

Q. Now, the meetings you have mentioned, the March 18 meeting, the meeting the latter part of March, and the meeting on April 27, did you consider those Loyalty League meetings? A. No, I didn't.

Q. Did you attend the meetings thinking that they were Loyalty League meetings?

[fol. 5255] A. No, I didn't.

Q. Did anybody suggest to you or say to you that they were Loyalty League meetings? A. No, they didn't.

Q. Did the fact that Rose Todd presided at these meetings lead you to believe that they were Loyalty League meetings? A. No, it didn't.

Q. Now, the 50-cent donation that you have just mentioned, did you make that donation to the Loyalty League?

A. I made that donation for this retainer's fee.

Q. Did the Loyalty League have anything to do with it? A. No, not anything.

Q. So far as you know?

A. Not as far as I know. I didn't even connect it with the Loyalty League.

[fol. 5256] Q. Did any official or executive or anyone representing the management suggest that you attend the meeting that was held the latter part of March?

A. No, they didn't.

Q. Did you feel that you would be penalized by the management if you did not attend that meeting?

A. No, I never had that feeling.

Q. Are you a member of the Loyalty League?

A. I am.

Q. Did anyone representing the management suggest or direct that you join the Loyalty League?

A. No, they didn't.

Q. Did you join the Loyalty League of your own free will? A. I did.

Q. Do you recall what activities the Loyalty League engaged in?

A. Well, they had, as I recall, an ice cream social, I know I was on one of the committees to help serve at an ice cream social for the Loyalty League, and I also served as one of their hostesses at one of their dances that they had at the Plaza Hall.

Q. Do you know of any activities that the Loyalty League engaged in that weren't social activities?

A. No, I don't. I will state that I have attended Loyalty League picnics.

[fol. 5257] Q. Did you pay dues to the Loyalty League?

A. No, I never did.

Q. Did the Loyalty League raise its money to pay for its activities by making charges at the picnics and the dances?

A. I don't know just what you mean.

Q. How did the Loyalty League, if you recall, pay for a dance or a picnic if it gave one?

A. Oh, they sold tickets to the dances.

Q. Did you ever authorize the Loyalty League to represent you in connection with labor matters?

A. No, I didn't.

Q. Did you ever hear of the Loyalty League representing the Donnelly employees in connection with any labor matters? A. No, I didn't.

Q. You never heard of it in any way dealing with the company in respect to wages and hours and conditions of labor?

A. No, I always took the Loyalty League that it was just purely a social organization, and never connected it with anything else, to my knowledge, that I ever knew of.

Q. Did the Loyalty League have anything to do with the formation of the Donnelly Garment Workers' Union?

A. No, it didn't.

Q. Did the Loyalty League hold meetings immediately following the meetings of the Donnelly Garment Workers' Union?

A. No, I never attended such a meeting.

[fol. 5258] Q. Did the Loyalty League ever hold any

meetings immediately preceding the meetings of the Donnelly Garment Workers' Union?

A. No, not to my knowledge.

Q. Did you ever recall of any money being raised at a Donnelly Garment Workers' Union meeting for any purpose of the Loyalty League? A. No, I never did.

Q. Did you ever hear of any business of the Loyalty League being discussed at a Donnelly Garment Workers' Union meeting? A. No, I didn't.

Q. I believe you stated that you read respondent's exhibit 35, which is an article that appeared in the Journal-Post on April 22, 1937, the article entitled "Donnelly Worker will be sent to Union Convention"?

A. Yes, I read that, one of the girls down there had the paper.

Q. What effect, if any, did that article have on you?

A. Well, it really surprised me, and it also made me furious.

Q. Why did it make you furious?

A. Well, I knew Sylvia to speak to her, and knew her as—I never worked right with her, but I have eaten lunch beside her and all, and she didn't seem the type of girl to take action and do anything like that, and besides it made me furious to think she would represent a group, if there was a group in our factory that would take it upon themselves to represent us in any such meeting that the [fol. 5259] paper stated they were going to.

Q. Do you recall seeing in that newspaper article, which is respondent's exhibit 35, the statement: "Perlstein said the Donnelly Committee desired one of their members to appear at the convention and ask the International body to endorse and support a strike against their employer"?

A. Yes, I remember reading that.

Q. Did that statement influence you in your feelings at the time? A. Well, yes, it did.

Q. Did you want a strike called at the Donnelly plant?

A. No, I didn't.

Q. Why didn't you?

A. Well, I was perfectly satisfied there as to my working conditions and the way everything was, and I didn't feel like I would participate in a strike, and I didn't want to have any part in it, and didn't want any of it where I

was working. I didn't want to engage in any such carrying-ons.

Q. State whether or not you feared you might be injured if a strike was called.

A. Well, I didn't know whether I would get in there with all my clothes on or my hair on my head or what would happen to me; from reading the other articles, I didn't know whether I would be in one piece in there or not, if they did strike.

Q. State what effect that article had on other employees so far as you could observe.

A. Well, the way they talked, they felt just about like I did. Some of them were afraid, and some of them were indignant, and they were very much concerned, all of them that I talked to.

By Mr. Ingraham:

Q. Did that article influence you in voting in favor of forming the Donnelly Garment Workers' Union, at the meeting of April 27th?

A. Well, yes, in a way it did. I felt like if we had our own union, that we would be the ones that would bargain for our company, and for ourselves, that there wouldn't be anybody else have a right to go to some convention and talk in our behalf on those things they didn't know anything about.

Q. What floor were you working on on April 23, 1937, if you recall? A. The eighth floor.

Q. The eighth floor. Was that the floor that Sylvia Hull worked on? A. Yes, it was.

[fol. 5261] Q. Did you work in the same section with Sylvia Hull? A. No, I didn't.

Q. That morning, April 23, 1937, did you see Sylvia Hull?

A. You mean when I saw her, or did I see her?

Q. Did you see her? A. Yes, I did.

Q. Will you state what you observed in connection with any demonstration that took place?

A. Well, the way I recall it, I was in 415; that was in the north end of the building; Sylvia was in 412, that was on the south part of the building and across the building. I would see girls going to and from her machine, some of

them would maybe stop around there, but I never paid a lot of attention. Some girl came—I don't know whether it was from the section or not—but some girl stated, the way I got it, that some of them asked her what she was doing with the Loyalty League pin on if she was representing the I. L. G. W. U., and she made the remark that she would give the Loyalty League pin back if they would give her her 35c.

And that section right over next to our section—we called ourselves the under-armers, we girls that did under-arming in our sections, we girls made up the money, 35c—I don't know where it came from, to give to Sylvia, her money for her pin, and they wrapped the money up and brought it up on our end of the table and wanted to know who would take it over there, and I said, "I will take it over there," and so I took it over there and laid [fol. 5262] it down on her machine in front of her, and I said, "Sylvia, here is the 35c that you wanted for your pin," and she didn't raise up her head, just mumbled something—I don't know what she said, and she laid the pin on her desk and I picked it up and took it back over to the section, and I don't recall just what I did do with the pin, whom I gave it to.

Q. Did you hear anybody threaten Sylvia in any way?

A. Well, I don't recall it if I did.

Q. Did you hear anybody say, "Let's throw her out of the window," or anything like that?

A. No, I don't recall hearing anything like that.

Q. Did you see anybody push Sylvia or strike Sylvia?

A. No, when I went over there, Sylvia was sewing.

Q. State whether or not operators that were on the floor at the time made any remarks to the effect that they weren't going to work so long as Sylvia remained there?

A. Yes, I think I heard that statement.

By Mr. Ingraham:

[fol. 5263] Q. When you stated "you think so", do you mean to say that you do recall hearing some operators make that statement?

A. Well, I believe I have. I don't remember whether I made it myself, but I might have; but I don't remember whether I did or not, but I could have, I felt like it.

Q. Well, did you hear other operators make a statement to that effect?

A. Well, I just wouldn't be positive how they worded it.

Q. But something was said to that effect?

A. Yes, the girls were just as indignant as I was, and I know we talked the situation over, three or four that went over there when I went, that I worked with.

Q. Did you hear Sylvia make any statement at all?

A. No, I didn't. When I told her that there was her 35c, she tipped her head down and mumbled something, but I couldn't distinguish what she was saying, and I never heard her make another statement; she was talking, but it was low, and I really never did know what she said when I gave her her money.

Q. State whether or not you wanted to work if Sylvia remained there at work?

A. Why, I didn't want to work there with her; I don't think I would have had I been in the section with her.

Trial Examiner Batten: You weren't working in her section?

A. No. There was three sections in a row, and there [fol. 5264] was a section between her section and mine, but she faced me, and I faced that way (indicating); we faced each other, but the length of the building was between us.

By Mr. Ingraham:

Q. I hand you respondent's exhibit No. 6, which appears in the Circuit Court record at 4864, and ask you if you recall reading that article that was contained in the Kansas City Times of February 26, 1937.

A. Yes, I read that.

Q. Do you recall reading the statement: "The union claims only 25 members among the Donnelly workers, but officials said hundreds of others were related to union members. Within a year we will have it completely organized," Mr. Perlstein said, as soon as we have enough members we will call a strike." Do you recall reading that? A. Yes, I do.

Q. And the further statement: "This will be in addition to carrying our side to the consumers." Do you recall reading that? A. Yes, I do.

Q. Well, what effect, if any, did that article have on you?

A. You mean about the I. L. G. W. U. members already in our plant?

Q. Well, the whole article, including the statement there were 25 members in the plant, and as soon as they had enough, they would call a strike?

[fol. 5265] A. Well, I don't really just understand what you mean, what effect it had on me.

Q. Well, did that article have any effect on you with respect to how you felt towards the I. L. G. W. U.?

A. Oh, it sure did, that didn't change—I never did want to belong to any I. L. G. W. U., and that made me worse—made me want to less than ever, or worse than ever, just whichever way you want to put it. I can't just state how I felt about it.

Q. State whether or not other employees at the plant discussed that article.

A. Well, I know the ones that sat around me did.

Q. What effect, if any, so far as you could observe, did this article have on other employees?

A. Well, the way I got it, they felt just about like I did.

Q. Do you recall a petition being circulated a few days after that article appeared in the paper?

A. Well, I recall the petition being circulated, I guess that is when it was.

Q. I hand you—

A. (Interrupting) I remember one being up there.

Q. (Continuing) I. L. G. W. U. exhibit No. 10, that appears in the Circuit Court record beginning at page 5961, and ask you if you recall signing a petition that had the statement at the top of it, that appears in this exhibit. A. Yes, I do.

[fol. 5266] Q. Will you state how you happened to sign that petition?

A. Well, yes, I recall that petition. It was brought up into my section at that time, and I was still in 415, and I remember the two girls bringing it up. There were two rows, and I was on this row (indicating) but I don't remember what time of day, whether it was at lunch time or early in the morning, I couldn't say, but I know we usually gathered at one end—it was either lunch time or in the morning, I can't recall which. We gathered

at one end of the section before time to go to work, to talk, you know, and to discuss things, and we went to our machines, and I remember it coming on the other row, and I went over there when the group was around them; I knew this Mary Sprofera, I didn't know the red-headed girl's name, but I had seen her; and I was over to my end of the row, and I went over to where the whole bunch was reading it, and I know I read it and I signed it over there at that time. I remember that very clearly.

Q. Did you sign the petition of your own free will?

A. Yes, I did.

Q. Did any officer, executive or anyone representing the management discuss with you anything in connection with this petition?

A. No, they didn't with me, I don't remember them saying anything to me; I don't recall anyone—I don't [fol. 5267] remember any executives there when I seen it, just a bunch of we girls, and I just signed it when those girls signed.

Q. Who handed you the petition, if you recall?

A. Well, I can't state whether Mary handed it to me, or whether some girl signed it and handed it to me, who had signed before me. I just wouldn't know. We were all gathered up there together.

Q. Was there anything said by Mary with respect to whether or not you should sign it or not sign it, as you remember?

A. She told us to read it over and to sign it if we wanted to.

Q. Did you feel that you would be penalized in any way if you did not sign the petition?

A. No, I never thought of that. I wanted to sign it; it expressed my feelings better than I could put it in words, and that is just what I wanted.

Q. There is a statement in the petition: "And refuse to acknowledge any union labor organization." Why did you want that?

A. Because I didn't want to belong to any labor organization outside of—

Mr. Langsdale: Will you read that answer?

Mr. Ingraham: She hasn't finished it.

Trial Examiner Batten: She hasn't finished it yet.

A. What made me want to sign, I didn't want to belong [fol. 5268] to any I. L. G. W. U. or any labor organization of that kind, that is the way I felt.

By Mr. Ingraham:

Q. Did the strikes that the I. L. G. W. U. engaged in influence you in any way in not wanting to belong to the I. L. G. W. U.? A. Well, yes, they did.

Q. Did you want Mrs. Reed to know that was the way you felt? A. I sure did.

[fol. 5269] Mr. Ingraham (Continuing): Did you read or [fol. 5270] understand these garment companies which were involved in strikes with the I. L. G. W. U. had signed up with the I. L. G. W. U. and the employees were forced to join the I. L. G. W. U.?

Mr. Ingraham: Do you understand the question?

A. Yes, I think I understand what you mean.

Trial Examiner Batten: Well, if you understand.

A. I think what he asked, he means did I read about some other company doing that, or heard about it?

[fol. 5271] A. Well, I think I have, but I wouldn't say positive whether I read it or had heard it, but I think I have heard that discussed or read about it.

[fol. 5272] By Mr. Ingraham:

Q. I want to direct your attention to the petition of March 2 that I asked you about this morning. You recall that petition? A. Yes, I do.

Q. Was that petition circulated by the Loyalty League?

A. No, it wasn't connected with it, to my knowledge, in any way.

Q. Did you know Rose Todd? A. Yes, I did.

Q. State whether or not you considered Rose Todd a boss of any kind. A. No, I never did.

Q. Did you know of any authority that Rose Todd ever had to direct other employees in anything?

A. No, I never did.

Q. Did you consider that Rose Todd had authority to speak for the management with respect to labor matters? [fol. 5273] A. No, I didn't.

Q. State whether or not instructors had any authority to hire, discipline, or discharge employees from July, 1935, to July, 1939.

A. Well, I never knew of it, if they did.

Q. Did you consider an instructor a boss?

A. No, I never did.

Q. Did you feel that because instructors joined the Donnelly Garment Workers' Union that that meant that the company was sponsoring the union?

A. No, I never did think the company was sponsoring the union.

Q. Did employees use the telephones at the plant?

A. The telephones?

Q. Yes. At the plant.

A. Yes; I have used the telephones.

Q. Has that been permitted as long as you have worked at the Donnelly Garment Company?

A. As long as I have been there, I have always used the telephone when I wanted to.

Q. Do the employees at times use the sewing machines for some personal purpose?

A. You mean for themselves?

Q. Yes.

A. Well, I never did. Oh, I've put a hem in a dress, or [fol. 5274] sewed up a seam in a dress that was ripped, or something like that. I don't know about the others.

Q. The company never objected to that?

A. They never did say anything to me.

Q. Do employees frequently pass papers down the sections?

A. Well, that is just about an everyday occurrence.

Q. Has the company ever objected to that?

A. No, they never did.

Q. Did an instructor direct or suggest that you attend either the March 18 meeting or the meeting the latter part of March or the meeting of April 27?

A. They never instructed me to attend any meeting.

Q. Have they ever suggested or instructed you to attend any union meeting? A. No, they never have.

Q. Has anybody representing the company ever suggested that you go to any union meeting?

A. They never did.

Q. Have you gone to union meetings of your own free will? A. I always have.

Q. Without any suggestion on the part of any official or executive of the company?

A. They never did suggest my going.

[fol. 5275]

Cross-Examination.

By Mr. Lane:

Q. Mrs. Riegel, I have heretofore shown you, for purposes of refreshing your recollection, Board's exhibit No. 1-RRRR, which appears in the Circuit Court of Appeals record at page 3471 and following. I will show you the fourth page of signatures of that offer, being page 3477,—

By Mr. Lane:

Q. Now, will you look at the 11th name in the right-hand column and state whether or not that is your signature?

A. Yes, that is my signature.

Q. Did you sign that offer of proof?

A. I did.

[fol. 5276] Q. Was there any influence or suggestion or any action taken by the employer, so far as you know, in connection with calling the meeting of March 18, 1937?

A. No, there wasn't, to my knowledge.

Q. Was that meeting called by the employees on their own initiative, so far as you know?

A. So far as I know, it was.

Q. Did Mrs. Reed say at that meeting that she would not allow members of the International Ladies' Garment Workers' Union to work at the Donnelly Garment Company?

A. I didn't hear Mrs. Reed say that.

Q. You heard Mrs. Reed speak there, did you?

A. Yes.

Q. Did you hear all of her speech?

A. I was there during all of it.

Q. You were there when she came in and when she went out?

A. I was.

Q. Did she say in that speech that she would not allow I. L. G. W. U. to be in her plant?

A. No, I didn't hear that.

By Mr. Lane:

Q. Did she say she wanted the names of anyone who joined the I. L. G. W. U. reported to her?

A. I didn't hear her say that.

[fol. 5277] Q. Was anything said at that meeting about providing busses for employees to ride in?

A. It was discussed and talked about.

Q. Do you know when busses were first furnished?

A. No, I don't.

Q. Did you ride the busses?

A. I rode them home every evening, I think, as far as they went, and I think I rode them a few mornings, but not all mornings. I rode with a neighbor lady and sometimes we would get out at Thirty-first and Main, where we caught the busses. But I always rode back to Thirty-first and Main.

Q. When you didn't ride the busses what means of transportation did you have to get to work?

A. I rode with a neighbor lady. Her husband brought us down.

Q. Did you personally have any fear of violence from the I. L. G. W. U. that was conducting these strikes over at Gordon, Gerns, and Missouri during the time the strikes were going on?

A. Yes, I did.

Q. What was your belief, based on your conversations in the plant and from what you read in the papers, as to whether the I. L. G. W. U. intended to visit the same sort of disorder upon the employees at the Donnelly Garment Company?

A. Well, that's the way I took the readings and the conversations I heard. At least, I was afraid that was [fol. 5278] what they were going to do.

Q. Did you join the Donnelly Garment Workers' Union of your own free will?

A. I did.

Q. At the time you joined it did you have any belief in your mind that you were being coerced, intimidated, or dominated by the Donnelly Garment Company to take the action you took in helping to form the Donnelly Garment Workers' Union?

A. No, I didn't have that feeling.

Q. Do you know of anything that the company ever did that you thought was an instance of domination or pressure or control on the part of the company over you or the other employees in connection with forming any labor union or staying out of any labor union?

A. None of the officials or anyone ever talked to me and I never had that belief.

Q. Now, when you made the motion on April 27, 1937, to form an independent, unaffiliated plant union, did you think that you were taking that action on behalf of the Loyalty League?

A. No. I didn't connect the Loyalty League with it in any way.

Q. Who was Arch Lile?

A. I don't think I knew him—where he worked—I don't think I did.

Q. Did you know Lena Faulconer?

[fol. 5279] A. Yes, I did.

Q. What did she do?

A. She was a hemmer.

Q. A machine operator?

A. Yes.

Q. Do you know Eva Liebermann?

A. Yes, I know Eva.

Q. What was her position?

A. She was an operator.

Q. Do you know Lyle Jeter?

A. Yes, I knew Lyle.

Q. Do you know what he did?

A. He was a mechanic.

Q. Did you know Mrs. Riggs?

A. Well, I knew of Mrs. Riggs. I didn't know her personally.

Q. Had you seen her about the plant?

A. I had seen her to know who she was.

Q. Did you know Carl Crawford?

A. Yes.

Q. What did he do?

A. Well, he worked in the cutting department, so far as I knew.

Q. Did you know Cordelia Taylor?

A. No, I didn't.

[fol. 5280] Q. Did you know Leona Moore?

A. Yes.

Q. What did she do?

A. She was an operator.

Q. Was there any one of the persons whom I have thus far mentioned you regarded as being a representative of the management or as being entitled to speak for the management in directing the activities of any other employees or to speak for the management in labor matters?

A. No, I didn't regard them as such.

Q. Did you know Elien Nokes?

A. I don't think I did.

Q. Did you know Virginia White?

A. I don't think so. I don't recall the name now.

Q. Did you know Fred Brown?

A. Yes, I knew Fred.

Q. Did you know Sally Ormsby?

A. Yes.

Q. Did you know Mamie Riddle?

A. Yes.

Q. Do you know where Fred Brown worked?

A. Well, in the cutting department.

Q. Where did Sally Ormsby work?

A. She was an operator, but I don't know what section [fol. 5281] she worked in.

Q. What about Mamie Riddle?

A. Mamie was an operator.

Q. Did you know Anna Richards?

A. I don't think so.

Q. Did you know Marjorie Green?

A. I knew Marjorie when I saw her.

Q. Do you know where she worked?

A. She worked in the office.

Q. Did you know Jack McConaughy?

A. Yes.

Q. Where did he work?

A. In the mechanics' cage.

Q. Did you know Hobart Atherton?

A. Yes.

Q. What did you observe him doing around the plant?

A. Well, I never knew what Hobart did—exactly what his job was. I always thought he worked in the mechanical department, down in the parts and things.

Q. Did you know Charlotte Casey?

A. No, I didn't.

Q. What did you observe Rose Todd doing around the plant?

A. Well, I don't know just what I would consider Rose's job, other than—

Q. Tell what you saw her do.

[fol. 5282] A. I have seen her come in our section and—maybe there would be an old bundle or a cut of dresses that was held up that we would have a recut out of, or something, and she would hunt up those old bundles, or maybe parts of them.

Q. Did you ever have the opinion, from what you saw Rose Todd do, that she was being held out by the management as a representative of the management, entitled to speak for the management in labor matters?

A. No, I never did.

Q. Did Rose Todd ever say anything to you, or did anybody else ever say anything to you that indicated that Rose Todd represented the management or was a boss or supervisor?

A. No.

Q. Was that true of all of the other persons whom I inquired about just before asking about Rose Todd?

A. Yes, that is true.

Q. Did you know Hazel Sancke?

A. Yes, I did.

Q. Do you know what she did?

A. She was an operator.

Q. Did you know Anna Reese?

A. Yes.

Q. What did she do?

A. She was an operator.

Q. Was there anybody who took any part in the meeting [fol. 5283] of April 27 who, in your opinion, occupied a supervisory status or position of a straw-boss or position superior to that of other employees?

A. No.

Q. Did you attend the meeting of May 11, 1937?

A. Yes; I did.

Q. I will ask you to state whether this was said, in substance, at that meeting:

"You realize now that Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid. I expect a good many of you are wondering what he is going to charge. I talked to him in some detail, and I am sure you will feel that he is quite right in the answer he gave me. He doesn't know what his answer will be, because it depends on how much trouble we cause him and how much work he will have to do for us.

"The union does have to be self-supporting in every detail. Being a thoroughly reliable group of employees, we can take care of our own financial obligations."

D. Rose Todd say that, or that in effect?

A. Yes, I remember that she did.

Q. Did you attend the meeting on May 25, 1935?

A. Yes.

Q. Do you remember whether or not at that meeting Rose Todd read an article appearing in the noon paper of [fol. 5284] that day, which referred to an interview claimed to have been had with Meyer Perlstein, in which he was asserted to have said:

"... the International Ladies' Garment Workers' Union opened headquarters at 1022 Baltimore Avenue today to organize," he says, "the Donnelly Garment Company."

"We will open with an advertising campaign through newspapers and radio against the patronage of garments manufactured in the Donnelly plant," Perlstein said. "Six girls now are undergoing training to travel from coast to coast visiting storekeepers handling the Donnelly garments, urging them to stop handling the Kansas City

product. If the store operators refuse to comply, their stores will be picketed.'

" 'As membership of our union in the Donnelly plant increases, a strike will be called. In such a case additional money will be required and we are ready to spend \$250,000 to accomplish our goal, and that amount is ready.' "

Do you remember that article from the paper being read at that meeting?

A. Yes, I recall it.

Q. Was there anything discussed in that meeting of the union about raising money for the Loyalty League?

A. No, there wasn't.

Q. Did you ever at a meeting of the Donnelly Garment Workers' Union discuss ways and means of raising any [fol. 5285] money for the Loyalty League?

A. No, we never did.

Q. Was there ever a time when a meeting of the Donnelly Garment Workers' Union was followed immediately by a meeting of the Loyalty League?

A. Not that I ever remember.

Q. Did you go to the meetings in March and April in your uniform, or did you dress before you went?

A. Well, I can't recall whether I always dressed or whether I didn't. I just can't remember.

Q. Did you sometimes go to the meetings in your uniform?

A. Well, I just don't remember.

Q. Do you recall at what hour your working day was finished in March and April of 1937?

A. Well, if we didn't work overtime, it would be 4:10 or 5:10.

Q. Was there ever a time in 1937, or any other time, when you were ordered by your instructor to go with the other members of your section in a body to a meeting and to stay together as a section and to return to work after the meeting was over?

A. No.

Q. Did that ever occur, as far as you know?

A. I don't remember anything like that ever occurring.

Q. Have you ever made a complaint since the formation [fol. 5286] of the Donnelly Garment Workers' Union

with respect to piecework prices, or any other matter involving your work, to a representative of the union?

A. Yes, I have.

Q. Are you able to fix the date of it?

A. No, I wouldn't know the exact date.

Q. Do you know whether it was before or after July 15, 1939?

A. No. I just couldn't recall.

[fol. 5288] By Mr. Lane:

Q. Did you, from the time the Donnelly Garment Workers' Union was formed up to July 15, 1939, continue to belong to the Donnelly Garment Workers' Union of your own free will and choice?

A. I did.

By Miss Weyand:

Q. Were you working at the Donnelly Company at the time the Loyalty League was organized?

A. Yes, I was.

Q. Do you remember how it was organized?

A. How?

Q. Yes, what occurred.

A. You mean at the meeting it was organized?

Q. Is that the first you heard of the Loyalty League at the meeting?

A. I don't understand your question.

Q. I just wondered what was the first you heard of the Loyalty League and what steps you knew that were taken to organize it.

A. Well, we had a meeting when it was first organized as a whole.

[fol. 5289] Q. When was that meeting?

Mr. Lane: Mr. Examiner, I have heretofore objected to matters going as far back as 1935 or thereabouts, on the ground we were precluded from inquiring into those matters under Your Honor's ruling, and I object to Miss Weyand going back to matters as far as 1935.

Trial Examiner Batten: Mr. Lane, of course, if you were precluded, why did you continue to ask questions about that?

Mr. Lane: I didn't ask any questions about 1935.

Trial Examiner Batten: Of course, you have asked questions concerning the events of Rose Todd and all those various people, whether they were ever supervisors, without any restriction at the time. Of course, it doesn't make any difference, because I haven't placed any restriction on the Loyalty League of any kind at any time in this hearing.

Trial Examiner Batten: I'll overrule the objection.

Mr. Reed: I want to make an objection, or rather, I am asking for information just now. Are we to understand that as to the Loyalty League, all the events leading up to its organization and its organization back in 1935 are to be received, but not what the company did in the conduct of [fol. 5290] its business, or what the scope of authority the employees had in conducting the company's business, is cut off in 1939?

Now, it seems to me those two rulings are contrary to each other, and that either all matters back of the filing of the charges here — wait one moment until I get that straight. Either all the matters that happened back there in 1935 are out on both sides, and with reference to everything else, all that took place is competent, and that you can't — that for the purposes of the prosecution here you can go back to 1935; but when the company comes to its defence, that time is cut off at 1939. I don't think that those two rulings can stand together.

Trial Examiner Batten: Well, I think, Senator, if that was the ruling I would agree with you. Do you have an objection to this question?

Mr. Reed: I object to it for the reasons I have given in this colloquy, and I am asking Your Honor now if you want to clarify this situation.

Trial Examiner Batten: Well, I don't think it needs any clarification, Senator. I think if you will go back in the record, the day we were discussing it, when I made the ruling, and it is very clear, I have gone over it a couple of times, and I think it is very clear in the record what was covered in the ruling.

[fol. 5291] Mr. Langsdale: The Court of Appeals ordered you to come back and take the testimony on the offers of proof, which you denied; on page 23 of respondent's offer of proof, with respect to the Loyalty League being organized as a social organization and remained such clear up to the time of the trial, they offered to prove it, and you wouldn't let them prove it, and the Court of Appeals told them they could prove it. That is the reason Your Honor ruled that way,

Mr. Reed: No, the Court of Appeals didn't tell them any such a thing.

Trial Examiner Batten: Is there a question pending? I'll have it read then, Senator, and if you have an objection to the question —

Mr. Reed: I object to it, because I say it is outside of the restrictions and rulings of the Court, denying us to go back to certain specified dates.

Trial Examiner Batten: Will you read the question?

(Thereupon the last question was read by the reporter, as follows:

“Q. When was that meeting?”)

Trial Examiner Batten: You may answer. You are referring to the organizational meeting?

Miss Weyand: The one she mentioned. She said the first she heard of it was a meeting.

[fol. 5292] A. I said the formation of it.

By Miss Weyand:

Q. I see. What was the first you heard of the Loyalty League?

A. Well, the first I considered it as a body, as a whole, was when it was formed.

Q. Had you considered it as an individual before that?

A. As what?

Q. As an individual. You said you considered it as a body when it was formed.

A. Well, when we formed it, we grouped all together, where before we were just little organizations amongst ourselves.

Q. Now, when you refer to it as being little organizations, what do you refer to?

A. Well, I mean our clubs, our section clubs.

Q. Do you know what arrangements were made to form those section clubs into the Loyalty League?

A. What arrangements?

Q. Yes.

A. No, I don't remember clearly.

Q. When did you first learn they were going to form a Loyalty League?

A. When?

Q. Yes.

A. Well, I don't remember that hardly, as to date.

Q. Do you know?

[fol. 5293] A. You mean as to the exact date?

Q. Well, was it before the large organization meeting to which you referred?

A. Well, it was when we had that meeting.

Q. Did you know of it before you went to that meeting?

A. Well, probably that day, or it might have been the day before, I don't remember.

Q. Do you know anything of a meeting of 40 people at Mrs. Gray's home? A. Yes, I was there.

Q. You were at Mrs. Gray's house? A. Yes, I was.

Q. Will you tell me what took place at that meeting?

A. No, I can't exactly. I just don't remember.

Q. They did discuss forming the Loyalty League at that meeting, did they?

A. Well, I couldn't say whether that was before we formed it or after we formed it. I really just don't remember.

Q. How many meetings were you out at Mrs. Gray's house?

A. Well, I never was but to one that I remember of.

Q. Were there representatives from each section present at that meeting? A. Well, I really can't say.

Q. Did you go there as a representative of the club in your section?

[fol. 5294] A. I couldn't say. I did.

Q. Do you remember whether that meeting was in the afternoon or the evening? A. At Mrs. Gray's?

Q. Yes. A. Oh, it was at night.

Q. Do you remember the names of any other persons present at that meeting?

A. Well, one girl I remember, that I know, she was there, I sat by her, Kathryn Chandler.

Q. You say you sat by her. You mean you sat by her at Mrs. Gray's home, at the meeting?

A. That is the only one I really do remember.

Q. Do you remember whether notes were taken at that meeting? A. No, sir, I don't remember.

Q. Do you remember who presided at that meeting?

A. I sure don't remember that clearly. I don't know.

Q. Did you prepare a pledge to circulate among the girls at that meeting? A. I don't remember.

[fol. 5296] Q. I am asking you to look at Board's exhibit No. 2, at pages 4362 and 4363 of the Circuit Court of Appeals record, asking you to direct your attention to the article "900 Join Loyalty League", and ask you if you ever read that before.

Mr. Ingraham: Now, I understand respondent has a continuing objection to this exhibit.

Trial Examiner Batten: That is my understanding, Mr. Ingraham.

A. I remember of attending that meeting where the word "Loyalty" was discussed.

[fol. 5297] By Miss Weyand:

Q. Have you read this article before?

A. Well, I am not sure.

Q. Do you know whether the meeting of February 5, held at the home of Mrs. Gray, is the meeting you attended?

A. I couldn't be sure. I attended a meeting there but I just can't be sure. I never attended but one, I never was at Mrs. Gray's house but once in my life.

Q. Do you know how you were invited to Mrs. Gray's house? A. No, I don't remember.

Q. Do you remember whether Mrs. Strickland was there? A. I just wouldn't know.

Q. Do you know who Mrs. Strickland is?

A. I know her when I see her, but, you know, I never met her personally, but I know where she works, on what floor.

Q. Do you remember whether cards were passed out at this meeting at which the meaning of this "Loyalty" was explained?

A. I just don't remember a lot about that meeting, it is so vague in my mind. I remember discussing the word "Loyalty", and what the word stood for, but I don't remember a lot about it.

Q. Do you remember who discussed the word "Loyalty"? A. I think Mrs. Gray did.

Q. Do you remember whether there was a drawing of a pin at that meeting? A. A drawing of it?

Q. Yes.

[fol. 5298] A. I don't remember just — what do you mean, a drawing, the shape of the pin?

Q. Yes, so you could see the design you were going to choose.

A. Well, I just don't remember clearly on that, lady.

Q. Do you remember whether officers were elected for the Loyalty League at that meeting?

A. I think they were.

Q. Who was elected?

A. I remember Herb Mutchler being our president.

Q. Do you remember whether a constitution was adopted at that meeting?

A. I don't recall very much about it.

Q. Do you know whether the Loyalty League had a constitution?

A. Well, I guess you would call it a constitution.

Q. What was it that you refer to, that you guess you would call a constitution?

A. Well, I would call it a pledge to the Loyalty League and to each other and to Mrs. Reed, and I guess you would call it a constitution; it was either a constitution or a pledge.

Q. Did the Loyalty League have representatives in each section? A. Yes, they did.

Q. How were they chosen? A. I don't remember.

[fol. 5309] Q. Were you ever a representative from your section to the Loyalty League?

A. Yes, I was; I think the first year, or something, I was the representative.

Q. What year?

A. I don't ever remember being a representative again.

Q. You don't recall how you were chosen?

A. No, I don't.

Q. What were your duties as representative of your section of the Loyalty League?

A. Well, I never did take an active part in the social activities, because I never could go regular to their activities, I had small children at home; and I know once I acted as a hostess at a dance, and also served on a committee—I don't know whether you would call it a picnic or an ice cream social that we had—but I never did do an awful lot, because I didn't take in the activities.

Q. Do you know what the representatives in each section were supposed to do?

A. Their duties, exactly?

Q. Yes. A. I don't remember.

Q. Did you sell tickets in your section for the affairs?

A. Yes, I sold tickets to that dance that I was a hostess at, I am sure, I took care of them.

[fol. 5300] Q. Did you collect funds in your section for other purposes? A. Well, I don't remember.

Q. How often did the Loyalty League have mass meetings? A. Well, I don't remember.

Q. Did it have them?

A. I don't remember that, I just really don't.

Q. You don't remember any meeting of the Loyalty League except the original organizational meeting?

A. Clearly, I don't remember right now.

Q. Do you know where that organizational meeting was held?

A. Well, I think on the second floor, to the best of my knowledge.

Q. Do you know who was the president following Herbert Mutchler? A. Well, Rose Todd, I believe.

Q. And do you know who the next president was?

A. Thelma Huffaker.

Q. Do you know any other officers of the Loyalty League? A. Other than those?

Q. Yes. A. I don't recall any.

Q. Do you know when Thelma Huffaker was elected president? A. From what date, or when?

Q. What year.

A. Well, let's see, the year—it was when Rose Todd was [fol. 5301] elected Chairman of our Donnelly Garment Workers' Union, she gave it up and it was taken over by Thelma, the best I member.

Q. Do you remember whether Thelma was elected at a mass meeting, or just a group of section representatives?

A. Of section representatives.

Q. Yes. A. I don't remember.

Q. Did you know the method by which the Loyalty League was formed?

A. I don't remember that either.

Q. Did you ever attend a meeting at which Thelma Huffaker presided? A. I don't recall of any.

[fol. 5303] Q. Was Eva Lieberman in your section?

A. Well, I wouldn't say. We were in what they called a special section, we did pinking, and they were blind stitchers and all; a lot of times there would be a vacant space in our section, and maybe they had taken machines out of other sections, and wanted to get some binding or straight sewing done, and the machines sitting in our place, and they would come up and work in our place at [fol. 5304] that time, and there have been some of them in our section at different times, but not all the time.

Q. Do you know who the instructor was in that section any time in the spring of 1937?

A. Well, I wouldn't be positive.

Q. What instructors do you remember along about 1936, '37 and '38? A. '36, '7 and '8!

Trial Examiner Batten: You mean instructors in her section?

Miss Weyand: Yes.

A. Well, I wouldn't know what years they were there. I can remember what instructors I had, part of them, when I was in 415 up on the eighth floor.

Miss Weyand: Will you state the ones you remember having?

A. But I wouldn't know just what time they were there. Well, I worked for Clara Finnell and Etta Dorsey.

By Trial Examiner Batten:

Q. Are those prior to July 1939? A. 1939?

Q. Yes.

A. Yes, I think so. Now then, I believe Lola Skeens was over there for a short time, Gertrude Dauben was our [fol. 5305] instructor once; whether it was before then or not, I don't know, but she has been my instructor; but I wouldn't know what year. There has been two or three since then, and I wouldn't recall when they came in.

By Miss Weyand:

Q. Do you remember the thread girls at the time of any of those instructors you have mentioned?

A. I remember thread girls that we have had over there, but I wouldn't know just when they were there.

Q. Would you name the thread girls you recall?

Trial Examiner Batten: Are these prior to 1939, as far as you know? A. Well, yes, I think so.

Trial Examiner Batten: Well, if any of them are prior to July, 1939, you may mention them.

A. I think Jessie Mudd was over there prior to that, [fol. 5306] but I don't know whether she was or not, or whether Emma Grober was there or not; I just don't recall when they were there.

By Miss Weyand:

Q. What other thread girls do you recall?

A. In that section?

Q. Yes. A. Well, I just can't think.

[fol. 5310] Q. Did Sylvia Hull have on a Loyalty League pin at any time on the morning of April 23rd?

A. Well, Sylvia didn't have it on when I went over there; whether she had it on before I don't know.

Q. You don't know how she happened to have it in her purse when you went over there? A. No, I don't.

Q. When did you first see that article about Sylvia Hull? A. When I did?

Q. When did you?

A. Well, I don't know whether I read it in the lobby, some of them had it down there that morning, or in the locker, I wouldn't be positive.

Q. Had you heard of it the day before?

A. The day before?

Mr. Reed: You mean heard of the article the day before it was printed?

Miss Weyand: No, it was printed on the 22nd, and we had been discussing a demonstration on the morning of the 23rd. I wondered if she heard of it on the 22nd.

A. Well, I could have. I don't remember clearly.

[fol. 5312] Q. How soon after you started work did you notice a commotion around Sylvia Hull's machine?

A. Well, I don't remember.

Q. What is the first thing you remember seeing?

A. Seeing?

Q. That morning, of an unusual nature.

A. Well, I don't know as I remember anything, whether I was out in the wash room or someone said something, that Sylvia said she would give her pin back if they would give her her 35c; I think that was about the first I remember of any commotion or anything; I can't recall clearly what time in the morning it was.

Q. Had you previously stated that as long as Sylvia Hull was sitting there, you couldn't and wouldn't go to work?

A. Before I took the pin money over to her?

Q. Yes.

A. I didn't say I didn't. I could have said it. We talked about it, you know, the girls and all, and I might have said it, I don't remember.

[fol. 5316] Q. How long after you took the money over to Sylvia Hull did she continue to work?

A. I never did know when Sylvia got up and left.

Q. But she was continuing to sew when you went over there to take the money?

A. She was sewing when I went over there and when I left.

[fol. 5317] Q. Did you hear Mrs. Reed make any remark at the March 18 meeting about having received the Loyalty petition?

A. At that meeting?

Q. Yes. A. I don't remember clearly.

Q. You don't remember her making any reference, directly or indirectly, to the fact that a few weeks before certain girls had come out to her and presented a statement of their loyalty?

A. I don't remember whether she did or didn't.

Q. Do you remember how you came to move at the April 27 meeting that the employees form an independent union? A. How it came that I made the motion?

Q. Yes. That was the question. A. I wanted it.

Q. Had you discussed such a motion before going to the meeting?

A. No. But Mr. Tyler talked to us and explained it all to us, and I felt like that was just what I wanted.

Q. So you got up and made a motion for it? A. I did. [fol. 5318] Q. Do you remember how you stated the motion?

A. Well, I don't know whether I can say it in the exact words. It seems like, "I make a motion that we form an independent, unaffiliated plant union," or something to that effect. I can't get the words all down just as they should be.

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[fol. 5319] Q. You think this March 18 meeting you heard about the morning it was held?

A. I don't remember whether word came down at lunch time or— The under-armers—we called ourselves the under-armers—always had lunch together. It may have been at lunch time; I don't know.

Q. What is your best recollection about the April 27 meeting?

A. Well, about in the same manner, as far as I can remember. There were about 10 or 12 of we under-armers, and we usually got word to the others if one heard something. That's about the best I remember.

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[fol. 5323] By Mr. Langsdale:

Q. Mrs. Riegel, on a number of occasions you answered the questions by Mr. Ingraham to the effect that no one representing the management was at a meeting. What do you understand by the phrase "no one representing the management", or "anyone representing the management"?

A. Did I answer that no one representing the management was at the meeting or told me to go to the meeting?

Q. Was at the meeting or told you to go to the meeting, or at any other time that you used that phrase; what did you mean by that?

A. By the management?

Q. Anyone representing the management.

A. Well, I would consider Mrs. Reed or Mr. Baty; I wouldn't know who else.

Q. So, in each instance where you said, "no one representing the management did this or that or the other," you meant Mrs. Reed and Mr. Baty, is that it?

[fol. 5324] A. Well, I meant anyone that had any authority never told me anything.

[fol. 5325] By Mr. Langsdale:

Q. In answer to one of Mr. Ingraham's questions, you stated—his question was, "Did the employees at the March 18 meeting, appoint a committee," and your answer was, "Yes." What did you mean by "appoint a committee"?

A. Well, someone was designated to go and see legal counsel.

Q. How were they designated?

A. Well, I don't remember exactly.

Q. Well, were they appointed by Rose Todd, or were they elected by the body there?

A. Well, I don't know, I don't remember.

Q. Now, you stated that at the meeting on March 30 you threw your 50¢ up on the platform. On the following day, or on any day after that, did anyone in your section [fol. 5326] ask you again for the 50¢?

A. As I stated, there might have been someone that had taken up the money that was sitting by me or saw me throw my money up on there.

Q. Well, that isn't the question. The question is, did anyone ask you for it the next morning?

A. Well, I don't remember whether they did or not.

Q. Well, wasn't there some girl in the section who was collecting the 50¢ from other girls in the section on the day after this meeting?

A. Well, I had given mine, and I felt I had given what I had given, and I didn't give it a lot of thought.

Q. Well, do you know whether or not there was any girl that was collecting money from other girls the next day after the meeting?

A. Well, they made that rule that night, they said that there would be some girls that would pick it up in the sections the next day.

Q. Well, did they say it would be the representative?

A. I don't remember them saying it would be the representative.

Q. Do you know who your representative was?

A. Representative from what?

Q. From the Loyalty League in your section?

A. No, and I didn't know the Loyalty League was the [fol. 5327] one taking up the money.

Q. Well, do you know whether she did it or not?

A. I didn't know who she was at that time.

Trial Examiner Batten: Well, do you know whether someone did collect money in your section the next morning?

A. Yes, they did, from what I heard. I don't remember seeing anyone.

Mr. Langsdale: Well, did that person try to get the 50¢ from you again?

A. I said I didn't remember.

Mr. Reed: I submit that has been answered.

Trial Examiner Batten: She has answered it.

By Mr. Langsdale:

Q. What was the answer?

A. I don't remember. I told them I had already given mine, and I don't remember anything about it.

Q. Now, you said the 50¢ was not for the Loyalty League. Did you know that on the day of the 30th of March, Rose Todd had gone to the First National Bank and borrowed a thousand dollars in the name of the Loyalty League?

A. Why, I wouldn't know where Rose went.

Q. She didn't tell you that the night of this meeting, did she?

A. What night of what meeting?

Q. The meeting where you say there was a report of the committee, and you contributed 50¢. On the night of [fol. 5328] that meeting, did Rose Todd tell you that she had been to the bank on that day, and borrowed a thousand dollars from the First National Bank in the name of the Loyalty League?

A. I don't remember any such statement. We discussed that the lawyers would have to be paid a retaining fee, and we discussed how it would be gotten up, and they voted to give the money, and that is the part of it I remember, throwing up my 50¢.

Q. And Rose Todd didn't tell you she already had the money, did she?

A. I didn't hear any such statement.

Q. Now, didn't you know the 50¢ you contributed went to the payment of a note of a thousand dollars at the First National Bank in the name of the Loyalty League?

A. The 50¢ I contributed, to my understanding, was to go for the \$500 retaining fee to Mr. Tyler.

Q. Yes, I understand you understood that. But did you later learn that your 50¢ was paid on the thousand dollar note of the Loyalty League at the First National Bank?

A. I never heard that.

Q. Did you know that the Loyalty League paid for the chairs at the April 27 meeting, when the Donnelly Garment Union was formed?

Mr. Lane: That is objected to as being a statement of or an affirmation of a fact, Mr. Langsdale, when it is contrary to the evidence.

Trial Examiner Batten: The question is, did she know it.

Mr. Lane: Well, I object to the form of the question.

Trial Examiner Batten: Well, she may answer it.

Mr. Langsdale: Did you know that?

Mr. Lane: I object to the form of the question as though he was stating a fact, when it is contrary to the evidence.

Trial Examiner Batten: You may answer.

A. Well, I didn't know the Loyalty League paid for anything that the Donnelly Garment Workers' Union had.

By Mr. Langsdale:

Q. You don't know whether they paid for the chairs at the meeting of April 27?

A. No, I don't know that they did, and I never heard it mentioned or said that they did.

Q. You have been here, have you not, when other witnesses have testified, Mrs. Riegel?

A. Yes, I have.

Q. Did you hear Mrs. Mudd testify?

A. Yes, I did.

Q. Did you hear Mrs. Dean testify?

A. Yes, I did.

Q. Did you hear Mrs. Barnes testify?

A. Part of it. I don't remember how much.

Q. Did you hear Mrs. Holloway testify?

[fol. 5330] A. Holloway?

Q. Yes.

Mr. Lane: I think you mean Mrs. Cooper.

Mr. Langsdale: Yes, Mrs. Cooper, she used to be Miss Holloway.

A. Last part of it.

By Mr. Langsdale:

Q. Did you hear Mrs. Warth testify?

A. Just part of it.

Q. Did you hear Mrs. Reed testify?

A. Mrs. Reed?

Q. Yes.

A. No, I didn't.

Q. How long had you known Sylvia Hull on the 23rd of April, 1937?

A. I don't recall how long I knew her. I didn't know Sylvia personally so much; it seemed to me she sat in the section with another friend of mine, that was a good friend of mine, and I think I have eaten lunch beside them when she ate with this other girl, and all.

Q. Did you know she had been working there eight years on the 23rd of April, 1937?

A. Well, I didn't know how many years Sylvia had been there.

[fol. 5334] Q. Did you hear anyone singing what they call the Loyalty League song?

A. No, I don't even know what they call the Loyalty League song.

Q. You say that you were the one who took the 35¢ to Sylvia?

A. I did.

Q. Do you know what denominations it was in?

A. No, I don't. It was wrapped up when it was handed to me. I know the girls pitched some money up there, and somebody wrapped it up and asked me if I would take it over there. What it was in I don't know.

Q. Wasn't it wrapped up in toilet paper?

A. I heard Sylvia's accusation of what it was; but I [fol. 5335] took it over there in my hand.

Q. You carried it to her?

A. I carried it to her in my hand, over to Sylvia's machine.

Q. How many feet was that?

A. I don't know how big that building is.

Q. Well, was it as far as from the back door of this room to the chairs against the wall?

A. Oh, I think our building is bigger than that; we had three sections, I don't know in feet how big it is.

Q. At any rate, you carried this 35¢ wrapped up all the way from your section over to Sylvia Hull's machine, and you don't know what it was wrapped up in?

A. I don't know. It could have been a tissue, it could have been Kleenex, it could have been anything; I don't remember even what my birthday presents are wrapped up in. I don't know what it was wrapped up in.

Q. What did the thing it was wrapped up in look like to you?

A. I just said I didn't remember.

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[fol. 5342] Q. You read the article, you said, of February 26, in which Dubinsky had had an interview saying he wanted to organize the Donnelly garment plant.

Mr. Ingraham: Just a minute. You mean Perlstein?

Mr. Langsdale: Yes.

A: Yes, I think I did.

By Mr. Langsdale:

Q. And then some 4 days later you signed this petition that has been called "the Loyalty Petition"?

[fol. 5343] A. I signed the petition.

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[fol. 5344] Mr. Langsdale: I am asking you, did it occur to you that the company had the petition signed and got the names and pictures in the paper as an answer to Perlstein's interview of February 26?

Mr. Reed: Now, that is objected to as incompetent and immaterial and as assuming that the company had this petition signed, when all of the evidence is to the contrary.

Mr. Langsdale: It isn't assuming that at all. I am asking her—

Trial Examiner Batten: The objection is overruled.

You may answer.

A. I signed the petition. I didn't think the company was having the petition signed, and I didn't know anything about any picture going to be in the paper when I signed it.

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[fol. 5357] Q. On May 11 when you had your meeting—You remember the meeting of May 11, don't you?

A. I think I recall that.

Q. And I think you said you recall this statement by Rose Todd: (It appears at 815.)

"You realize now that Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid."

Do you remember that?

A. I think so.

Q. Did you know that he had already been paid \$500 at that time?

[fol. 5358] A. That was his retainer's fee. I knew he would have to be paid more, as long as we kept him, depending on what his duties were. I never gave a thought to how much.

Q. Did you know on May 11—Rose Todd told you prior to May 11 he had already been paid \$500?

A. Well, I don't remember whether she had told us or not. I suppose she had. We had donated the money for that, and I supposed if they were going to retain him they would have to turn the money over to him.

Q. Did she say, "I expect a good many of you will be wondering what he is going to charge."?

A. I remember Rose saying that.

Q. You didn't know at that time that he had already been paid \$500?

A. I don't know whether I definitely knew or not. I assumed he had.

Q. Well, what did you think Rose Todd was talking about on May 11 when she said, "Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid," if you knew he was already paid?

A. Well, I didn't consider that \$500 to pay him up. He was still our counsel.

Q. Did you think that this money that she was talking about on May 11 was in addition to the \$500 he had already been paid, or did you know he had already been paid that? [fol. 5359] A. I couldn't say.

Q. Could it be that you just have the dates mixed on when this 50 cents was collected, and that it was collected on May 25 instead of sometime in March, and Rose Todd was leading up to something else in the meeting of May 11 when she was talking about he was going to have to be paid? A. May 25?

Q. Yes.

A. No. I was clear on when we paid the 50 cents, in the March meeting.

Q. But you don't know when it was paid to Mr. Tyler, do you?

A. Well, I told you I assumed it was given to him right away. I didn't suppose any lawyer would take a case unless he had some money.

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[fol. 5363] RUBY CLAYTON, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination.

Mr. Ingraham: Will you state your name, please?

A. Ruby Clayton.

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Mr. Ingraham: Where do you live?

A. 2637 Charlotte.

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By Mr. Ingraham:

Q. Were you formerly employed at the Donnelly Garment Company? A. Yes, I was.

Q. What period of time did you work at the Donnelly Garment Company?

A. I worked from about 1929 until January, 1940.

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[fol. 5368] By Mr. Ingraham:

Q. In what capacity did you work at the Donnelly Garment Company? A. As an operator.

Q. Were you working at the Donnelly Garment Company in March and April, 1937?

A. I was off for a while, but I came back to work the 22nd day of March in 1937.

Q. Do you remember how long you were off?

A. Well, off about six or seven months.

Q. Prior to that time? A. Yes.

[fol. 5369] Q. Were you a member of the Donnelly Garment Workers' Union? A. I was.

Q. When did you join that union, if you recall?

A. Well, when we formed the union I joined it.

Q. Was that on or about April 27, 1937?

A. Yes, sometime around that time.

Q. Was there a meeting at which the union was formed, a meeting of employees? A. Yes.

Q. Do you know what time of day the meeting was held? A. It was after working hours.

Q. And do you know where the meeting was held?

A. On the second floor.

Q. Do you recall whether or not a vote was taken in regard to forming the Donnelly Garment Workers' Union?

A. Yes, I think there was.

Q. Now, did any officer or official discuss with you prior to that meeting the formation of the Donnelly Garment Workers' Union? A. No, they didn't.

Q. Did anyone that you thought represented the management discuss with you the formation of the Donnelly Garment Workers' Union? A. They did not.

[fol. 5370] Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Keyes, Mr. Green, or Mrs. Ella Mae Hyde ever discuss anything with you in respect to the formation of the Donnelly Garment Workers' Union? A. No, they didn't.

Q. Did Mr. Bachofer ever discuss anything with you in respect to the formation of the Donnelly Garment Workers' Union? A. I didn't know Mr. Bachofer.

Q. Did any of the people I have just named suggest or instruct you to attend this meeting?

A. No, they didn't.

Q. Did any of the people I have mentioned advise you that you should vote to form the Donnelly Garment Workers' Union? A. No.

Q. Did any instructor discuss with you the formation of the Donnelly Garment Workers' Union?

A. No, they didn't.

Q. Did any instructor suggest or direct you to attend this meeting? A. No.

Q. How did you happen to go to the meeting?

A. Well, we talked about it all the time, that was the main conversation, was about these meetings and about the strikes, and information that was going on.

[fol. 5371] Q. Had you read articles in the paper about strikes at the Gernes, Gordon, and Missouri plants?

A. Yes, I had.

Q. I will hand you respondent's exhibit 16, which contains the front page of the Kansas City Times of March 18, 1937, and ask you if you recall seeing the pictures of the strike at the Missouri, Gernes, and Gordon plants?

A. Yes, I saw them.

Q. I will hand you respondent's exhibits 18 through 38, and ask you to look over these exhibits, and state which exhibits you had read in the papers. As you go along, just please tell us which ones you read.

A. I think I read exhibit No. 18; I am not sure about this No. 19; I am not sure about No. 20; I didn't take the Post at that time, but I did see some of those articles that was in the Post. I don't think I read No. 20 either.

Trial Examiner Batten: Q. What was that number?

A. Exhibit No. 20, I don't think I read it either; I heard about this No. 21, but I don't think I read it; I believe I did read No. 22; I am not sure about 23; I think I read 24 also; and I read 25; and I read 26; I also read 27; and I read 28; and 29, I read that also; and 30, I read that; I don't think I read 31; I am not sure about 32; I read 33; I read 34; I read No. 35 also; and 36, I read that; and I read exhibit 37; I don't think I read exhibit 38.

[fol. 5372] Q. State what effect, if any, the articles that you read that referred to the strikes at the Missouri, Gernes, and Gordon plants had upon you.

A. Well, naturally it made me fear that they might do the same thing to us, that they would use violence on us, since they had threatened to organize our plant.

Q. Had you heard of any threats being made by the International to use the same kind of violence on the Donnelly employees?

A. Well, I had heard that they meant to organize us, and naturally I thought that meant to do it in the same way.

Q. Did you see any violence at the other plants?

A. No, I didn't see any of it, but I heard a lot about it and read a lot about it.

Q. Was there a general discussion of those strikes among the Donnelly workers?

A. Yes, that is about all we did talk about.

Q. What was the effect—no, strike that.

Do you know whether or not there was a general discussion among the Donnelly employees on these articles that appeared in the paper?

A. Yes.

Q. Was there a general discussion of the violence that [fol. 5373] was going on at the Gernes, Gordon, and Missouri Plants?

A. Yes, there was. The girls would come in and talk about someone that they happened to know of that had been hurt in different ways.

Q. Well, so far as you could observe, what was the effect of the strikes at those other plants, on the employees of the Donnelly plant?

A. Well, they all felt the same fear that I did, that they would try to use the same violence on us, and they resented it because they didn't care—they wanted to go about their own business and take care of their own affairs, they didn't want to have someone coming down and telling us what we had to do.

[fol. 5374] By Mr. Ingraham:

Q. Did you observe that other employees were nervous and excited? A. Yes.

Q. And did you discuss with other employees the violence that you had read about in the paper? A. I did.

Q. Did you observe that the violence did cause you and other employees to be worried and excited?

A. Yes, that is all they talked about. We talked it at lunch and before work and after work, and the girls couldn't think of anything else.

Q. Was there a general discussion that the International might be at the plant in the morning before you got there?

A. That's right. We expected them there every morning, and every night, and they passed out slips to us at night when we went home from work, and talked about visiting us the same way.

Q. Now, you said that you were present at the meeting at which the Donnelly Garment Workers' Union was

formed. Will you please state if there was a general discussion at that meeting of the violence that was going on [fol. 5375] at the Gernes, Gordon, and Missouri plants?

A. You mean among the girls at the meeting?

Q. Yes. A. I can't remember for sure about that.

By Mr. Ingraham:

Q. Did you vote in favor of forming the Donnelly Garment Workers' Union? A. I did.

Q. Will you state what your reasons were?

A. Well, I didn't care about—I thought if we had our own union that we would not be molested, that we could, by the law, have a right to do, you know, go back and forth to work and not be beat up every time we turned around, [fol. 5376] or something; I didn't care about the violence and all.

Q. You mean that you didn't want the violence?

A. That's right.

Q. Did you want to join the I. L. G. W. U.?

A. No, I did not. We were perfectly satisfied with our wages and conditions at work, and we had no reason to want to join any other union, and we didn't see why we should be forced into it.

Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Mr. Bachofer, or Ella Mae Hyde, or anyone you thought represented the management, request you or instruct you to vote in favor of forming the Donnelly Garment Workers' Union? A. No, they didn't.

Q. Did any instructor request you to join the Donnelly Garment Workers' Union?

A. No, no one even mentioned whether I should or should not, I did it all on my own.

Q. Did you ever hear of any of the people I have mentioned discuss with any employees that they should vote in favor of forming the Donnelly Garment Workers' Union? A. No, I didn't.

Q. Did you feel that you would be penalized if you did not vote to form the Donnelly Garment Workers' Union? A. I had no thought of that kind, no.

Q. Did you join the Donnelly Garment Workers' Union [fol. 5377] of your own free will? A. I did.

Q. Now, after you had returned to work on March 22nd, 1937, and prior to the time the Donnelly Garment Workers' Union was formed, did the employees hold another meeting? A. Yes, they did.

Q. Do you recall about when that meeting took place?

A. Well, it was about the last of March sometime; I don't recall the exact date; it was shortly after I returned to work.

Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Mr. Bachofer and Mrs. Ella Mae Hyde discuss with you the holding of that meeting? A. No, they didn't.

Q. I want to include another name among these people I have mentioned, Miss Spilsbury. Did she ever discuss any meeting with you of any kind? A. No, she didn't.

Q. Do you know Miss Spilsbury? A. No, I don't.

Q. Did you ever have any talk of any kind with Miss Spilsbury? A. No, I haven't.

Q. Has Miss Spilsbury ever made any talk at any meeting that you can remember of?

[fol. 5378] A. No.

Q. Now, the questions I asked you with respect to the April 27 meeting, and I mentioned these people, Mrs. Reed, and so forth, I meant to include Miss Spilsbury. Would your answer be the same with Miss Spilsbury included in that list? A. That's right.

Q. Did any instructor discuss the holding of that meeting the latter part of March with you? A. No.

Q. Did anyone that you thought represented the management discuss with you the holding of that meeting?

A. No, they didn't.

Q. Do you recall when the meeting was held?

A. Sometime the last of March, but I don't remember the exact day.

Q. I mean what time during the day?

A. Oh, yes, it was after working hours. We have never had any meetings that was not after working hours.

Q. Do you remember where the meeting was held?

A. It was held on the second floor; it was vacant at that time.

Q. Will you state what occurred, so far as you can remember, at that meeting?

A. Well, to the best of my knowledge, they wanted to know what we could do, and we selected a committee—ap-[fol. 5379] pointed a committee, I should have said—to see an attorney to see what we could do to get legal advice, to see what we could do.

Q. Was anything said in connection with paying the attorney?

A. Why, yes, we decided if we had any attorney, that he would have to have a retaining fee, to retain him, and we was asked for suggestions on how we would go about raising this fee, and some of them suggested a dance, and different things like that, but in the end some of them suggested we take up enough money from each one of the employees to make up enough to pay the attorney; and I think [fol. 5380] we decided on 50¢ each—in fact, I know we decided on 50¢ each.

Q. Did you contribute 50¢? A. I did.

Q. Did you see other employees contribute their money?

A. I took up the 50¢ in my section.

Q. When did you do that?

A. Well, in the next day or two or three, it took some time, because I had to spend my lunch and take up the collection from the girls, before work and after work, and it took quite some time; I think it took two or three days for me to pick it up.

Q. Now, did you pick that money up for the Loyalty League? A. I did not.

Q. Did you understand that when you made your contribution of 50¢, you were making it to the Loyalty League?

A. No, I understood it was just for the employees to give as a retaining fee to the lawyer to advise us on what would be the best thing to protect ourselves.

Q. Now, did anyone representing the company, or that you thought was a representative of the company, make any suggestions about raising this money, or anything that took place at the meeting?

A. No, it was just among the operators, the girls there in the meeting.

Q. Did you see Mrs. Reed, Mr. Baty, Mr. Green or Mrs. [fol. 5381] Reeves, or Miss Spilsbury, Mr. Bachefer, Ella Mae Hyde, at that meeting? A. No, I didn't.

Q. Now, at the meeting of April 27, where the union was formed, did you see Mrs. Reed, Mr. Baty—

By Mr. Ingraham:

Q. Did you see Mrs. Reed, Mr. Baty, Mr. Green, Mrs. Reeves, Miss Spilsbury, Mr. Bachofer, or Ella Mae Hyde at that meeting? A. No, I didn't.

Q. Did you ever see any of those people at any union meeting after April 27? A. No, I haven't.

Q. When you—strike that.

After you collected the money at the meeting of the last of March, or after the meeting of the last of March, whom did you turn the money over to?

A. I gave it to Miss Todd.

Q. In collecting the money that you referred to, or anything that you did at the meeting at the last of March, did you do any of those things as the representative of the Loyalty League? A. No, I didn't.

[fol. 5382] Q. Were you a member of the Loyalty League? A. I was.

Q. Do you recall when you joined the Loyalty League?

A. Sometime in 1935 or thereabouts, it was a couple of years before.

Q. Do you recall what activities the Loyalty League engaged in?

A. It was purely social, we had dances and parties and carnivals, and we even had amateur shows that we would put on among the employees.

Q. Did you pay any dues to the Loyalty League?

A. No, we didn't.

Q. Have you ever authorized the Loyalty League to represent you in any labor matters? A. No.

Q. Did you ever hear of the Loyalty League representing any employees in connection with labor matters?

A. No, I didn't.

Q. Did you ever hear of the Loyalty League dealing with the company with respect to wages and hours, and terms and conditions of labor?

A. I never heard of the Loyalty League doing anything other than just social activities, just putting on social activities.

Q. Did you feel that you would be penalized by the company if you did not join the Loyalty League?

A. No, I didn't.

Q. Do you recall any meeting of the Loyalty League that was held immediately following a meeting of the Donnelly Garment Workers' Union?

A. No, we never had any two meetings in one night.

Q. Did you ever hear of any Loyalty League meeting that immediately preceded a meeting of the Donnelly Garment Workers' Union?

A. No, I think I answered that in the other answer; I never heard of two in the same night.

Q. Do you recall of any mention of raising money for the Loyalty League that took place in any Donnelly Garment Workers' Union meeting? A. No.

Q. Was any business of the Loyalty League, so far as you can remember, ever discussed at any meeting of the Donnelly Garment Workers' Union?

A. I don't remember of them ever having a discussion of the union affairs at a Loyalty meeting, or vice versa, no.

Q. Was there any pressure or coercion brought to bear on you, of any kind, to join the Loyalty League?

A. No, there was none.

Q. Did you join the Loyalty League of your own free will? A. I did.

[fol. 5384] Q. Did the Loyalty League, so far as you know, sponsor the formation of the Donnelly Garment Workers' Union? A. Not to my knowledge.

Q. Was there any connection of any kind between the Loyalty League and the Donnelly Garment Workers' Union?

A. No, not to my knowledge, there was not.

Q. Did the Loyalty League continue in existence after the Donnelly Garment Workers' Union was formed?

A. Yes, it did.

Q. Did the fact that Rose Todd was president of the Loyalty League at the time of the formation of the Donnelly Garment Workers' Union indicate to you that the Donnelly—strike that question.

Did the fact [the] Rose Todd was president of the Loyalty League at the time that she was active in the formation of the Donnelly Garment Workers' Union lead you to be-

lieve that the Loyalty League was sponsoring the Donnelly Garment Workers' Union?

A. No, it didn't.

Q. Did the fact that Rose Todd took an active part in the meeting that was held the latter part of March indicate to you that it was a Loyalty League meeting? A. No.

Q. Did you consider Rose Todd a boss at the time?

A. I didn't consider her one, no.

[fol. 5385] Q. Did you consider her as an instructor and boss of operators? A. No.

Q. I believe you stated that you read respondent's exhibit 35, which was an article that appeared in the Journal-Post of April 22, 1937, entitled "Donnelly Worker will be sent to Union Convention."

A. Yes, I did read that. One of the girls brought it down to work and I read it, in fact a number of them did.

Q. Did you read in that article: "Perlstein said the Donnelly Committee desired one of their members to appear at the convention and ask the International body to endorse and support a strike against their employer." Do you recall that being in the article?

A. Do I recall that in the article, did you say?

Q. Yes. A. Yes, I remember reading it.

Q. Was that article generally discussed among the employees of the plant? A. Yes, it was.

Q. What did you think about Sylvia Hull going to the International Convention and asking support for a strike?

A. Well, it made me very indignant, because I hadn't asked her, or none of the other girls, that I have heard of, asked her to represent them; in fact, it was news to all the [fol. 5386] girls that I talked to.

Q. Did you favor a strike at the Donnelly plant?

A. No, I didn't, I was satisfied.

Q. Did you believe that a strike meant that the International would use the same sort of violence that had been used at the Missouri, Gordon, and Gernes plants?

A. Why, yes, I could hardly think anything else. That is the way they had called all the other strikes that I knew of:

Q. So far as you could observe, what effect did that article have on other employees at the Donnelly plant?

A. Well, there was a lot of talk at the plant, and it was all--no one seemed to like the idea that she would take it

on herself to put a piece like that in the paper and go some place to represent them, when they didn't want representation from the I. L. G. W. U.

Q. Were you at the plant on April 23, the day following the time the article was in the paper?

A. Yes, I was.

Q. What floor were you working on at that time?

A. On the eighth floor.

Q. What section were you working on?

A. 415, I believe it was, I worked in the special section.

[fol. 5387] By Mr. Ingraham:

Q. Did you see Sylvia Hull that morning?

A. No, I didn't see her. She worked across the room from where I worked.

Q. Did you go over to Sylvia's section at all?

A. No, I didn't.

Q. Did you see other girls go over?

A. No, I didn't see anything at all.

Q. Did you keep on working? A. Yes.

Q. Did you remain a member of the Donnelly Garment Workers' Union up until July, 1939?

A. Yes, I did.

Q. Did you do that of your own free will?

A. I did.

Q. Did you feel that because instructors attended the meeting the latter part of March and the meeting of April 27 that that meant that the company was sponsoring those meetings?

A. No, I didn't; I felt like the instructors were working there the same as I was; and that they didn't have any more right to tell anyone what to do than I did.

Q. Did you feel that because the instructors joined and favored the formation of the Donnelly Garment Workers' Union that that meant that the company was sponsoring that union? A. No, I didn't.

[fol. 5388] Q. I'll hand you respondent's exhibit 6 that appears in the Circuit Court record at 4864, and ask you if you will please read that article. Do you recall reading that article?

A. I don't remember whether I read it or heard it discussed, but it is familiar to me.

Q. Do you recall the statement in the article: "The union claims only 25 members among the Donnelly workers, but officials said hundreds of others are related to union members. Within a year we will have it completely organized, Mr. Perlstein said. As soon as we have enough members, we will call a strike."

A. Yes, I do.

Q. (Reading) "This will be in addition to carrying our side to the consumers." A. I remember that.

Q. Did you want a strike at the Donnelly plant?

A. No, I didn't.

Q. What did you understand Mr. Perlstein meant by saying, "This will be in addition to carrying our side to the consumers"? Did you know what he meant by that?

A. Why, I thought he meant that other article he had in there about sending representatives to the different states to—

Trial Examiner Batten: Boycott, is that the word you are looking for?

[fol. 5389] A. Yes, to boycott the Donnelly Garment Company.

By Mr. Ingraham:

Q. Did you want that? A. No, I didn't.

Q. Did you understand that the sending of such emissaries to boycott the Donnelly Garment Company might affect your job? A. Yes.

Q. So far as you could observe, what was the effect of this article—strike that.

Did this article cause you to have any resentment toward the I. L. G. W. U.? A. Yes, definitely.

Q. Did anything—strike that.

Did you ever hear Senator Reed make a speech?

A. No, I don't think I ever did.

Mr. Reed: One fortunate woman.

By Mr. Ingraham:

Q. I believe you stated that the February 26 article [fol. 5390] that I just handed you before I handed you

this last article, that that article was discussed. Do you mean that it was discussed after you got back to work?

A. Yes. I kept in constant touch with all the girls while I was off. I was off on account of illness, I had a major operation; but I was in touch with the girls, and I went to their meetings, just the same as I did while I was working; I mean, you know—I mean our clubs, and things like that.

Q. Do you have a sectional club? A. Yes, we did.

Q. Did that sectional club exist after the Loyalty League was formed?

A. Yes, I went to the meetings in our clubs after I quit work, well, up until I had the baby, and I couldn't go to the meetings because of him.

Q. The club still is in existence?

A. That's right.

Q. What do you call the club?

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A. Well, the club I belonged to in my section, we call the 500 Pennies Club.

[fol. 5391] Q. I think I asked you a question and I don't know whether you answered it. Let me ask it again.

Did this sectional club exist up until July 1939?

A. Yes, sir. It is still in existence.

Q. I am only going to ask you about matters that occurred up to July 1939. Did you attend a meeting of employees on March 18?

A. No. I wasn't at work at that time.

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Cross-Examination.

By Mr. Lane:

Q. Mrs. Clayton, who did you understand represented the management, entitled to speak for the management?

A. Well, anyone who can hire or fire, or an official of the company. That was my impression of who would be considered as a representative of the management.

Q. Did you know Rose Todd in April 1937?

A. Yes, I did.

Q. How long had you known her?

A. I had known her for quite a long while. I can't say just how long, but for quite a while.

Q. Do you know what she did, what her job was, in April 1937?

A. Well, she hunted lost bundles and things like that in [fol. 5392] the section.

Q. Will you detail, now,—tell everything you saw Rose Todd doing in her daily work in the plant?

A. She would just go through the sections and look to see if there were any bundles there that had recuts out of them—that the recuts had held up the bundles and they should have gone on through. That was all I ever saw her doing.

Q. Did you ever get the opinion in March or April of 1937 that Rose Todd was an official of the company, or a supervisor of the company?

A. No.

Q. Or a supervisory employee?

A. No.

Q. Did you get the opinion that she was a boss or that she had any control over the other employees?

A. No, I didn't.

Q. Were there any employees working under Rose Todd, as far as you know?

A. Not that I ever knew of.

Q. Did Rose Todd ever say anything to you that gave you the impression that the company was holding her out as being entitled to speak for the management, as far as directing the affairs of the other employees was concerned?

A. No, she didn't.

Q. Did you know Hobart Atherton?

[fol. 5393] A. I just knew him when I saw him.

Q. Do you know what he did?

A. No, I don't.

Q. Did you have the opinion that he was a supervisor or boss or representative of the management?

A. No, I didn't.

Q. Did you know Sally Ormsby?

A. Yes.

Q. Did she work in your section?

A. No. She was my locker mate. She was an operator in another section.

Q. Had she always been an operator, so far as you know?

A. Yes, she had.

Q. Did you have any idea that Sally Ormsby was a boss or a representative of the management?

A. No.

Q. Do you know who your instructor was in April of 1937?

A. I think it was Etta Dorsey.

Q. When you went back on March 22, 1937, you went into section 415, did you?

A. That's right. I worked in that section most of the time.

Q. Did you ever have the opinion in March and April of 1937 that Etta Dorsey was a spokesman for the company or that she was a supervisor or boss?

[fol. 5394] A. No.

Q. What did the instructor do, so far as the operators in the section were concerned?

A. She just sat down at the machine and showed the girls how to sew the different dresses or do their work, and if there was anything she was in doubt about she always went upstairs to see about it and we had to wait until she came back to show us.

Q. Did she, as far as you know, have any authority to hire the girls or fire the girls who worked in that section?

A. No.

Q. Or to discipline them in any way?

A. No.

Q. Who was the thread girl in section 415 in March and April of 1937?

A. I don't remember for sure. We had several thread girls, but Etta Dorsey and Kathryn Rosen were the only two instructors I ever worked steadily for.

Q. You mean you had—

A. At different times we had different thread girls.

Q. You don't mean you had several at one time?

A. No. Just one at a time.

Q. What did the thread girl do?

A. She brought thread to us to match the bundle of work, or rubber bands, or labels, or pins, or anything like that that we had to have, she gave those to us.

[fol. 5395] Q. Did the thread girls, as far as you know, have any ability to hire or fire operators?

A. No.

Q. Or to discipline operators?

A. No.

Q. Did you ever have the opinion in March or April of 1937 that the thread girl was held out by the management as being a boss of the operators in the sections?

A. No.

Q. Or as being a representative of the management, entitled to speak for the company in connection with labor matters?

A. No.

Q. Or any company policy?

A. No.

[fol. 5396] By Mr. Lane:

Q. Do you know what the closing hour was along in [fol. 5397] April of 1937, as far as your section was concerned—when you quit work?

A. I think it was 4 or 4:10—something like that. If we worked overtime it would be 5 or 5:10.

Q. Do you know whether you were working overtime in April 1937?

A. No, I don't.

Q. Did you go to the meetings in the latter part of March and on April 27, 1937, in your uniform?

A. I never attended the meetings in my uniform. I always dressed before going to the meetings.

Q. Did you get to each of the meetings, about March 30 and April 27, before the meeting had begun?

A. Yes.

Q. And did you remain throughout the meeting?

A. Yes.

[fol. 5400] Q. You voted, I believe, to form an independent plant union at that meeting?

A. Yes, I did.

Q. When you voted to do that, were you under any restraint or pressure or coercion from the company to vote [fol. 5401] in favor of forming a plant union, so far as you know?

A. No, I wasn't. That was my desire.

Q. Did you have the feeling in your mind that when you cast that vote you were exercising your own free choice in the matter?

A. Yes, I did.

Q. Was there any act, that you know of, by anybody that you believed represented the management from about the beginning of 1937 down to July 15, 1939, that in your own opinion constituted an act of coercion or intimidation on the part of the company to join any particular union or stay out of any other union?

A. No.

Q. Did you attend most of the meetings of the union following its organization in April 1937?

A. I attended most of them, yes.

Q. Did you attend the meeting of May 11, 1937, the union meeting?

A. Which one was it?

Q. For purposes of refreshing your memory as to whether you attended that meeting or not,— You have heretofore looked at the minutes of the May 11 meeting, have you not?

A. I think so.

Q. I will show them to you again, for purposes of refreshing your recollection (the number is 8-12, beginning at [fol. 5402] page 4406 of the Circuit Court of Appeals record) and have you look at them. Just glance at them briefly and see if they recall to your memory whether you did or did not attend that meeting.

A. (Referring to minutes indicated in the last question.) Yes, I attended that meeting.

Mr. Reed: What date is that, Mr. Lane?

Mr. Lane: May 11, 1937.

By Mr. Lane:

Q. Was there any discussion at that meeting of union finances?

A. Was that before we formed the union or—

Q. No. This is May 11.

A. We formed the union March 27, wasn't it—that we had the meeting to talk to Mr. Tyler; wasn't it? March 27 was the date I collected the 50 cents, I am sure, for Mr. Tyler.

Q. The meeting I directed your attention to was the meeting of May 11, 1937, a meeting of the union, which was formed on April 27, and you said you attended that meeting?

A. Yes.

Q. I will ask you whether or not this was said at that meeting:

"You realize now that Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid. I expect a good many of you are wondering what he is going to charge. I talked to him in some detail and [fol. 5403] I am sure you will feel he is quite right in the answer he gave me. He doesn't know what his answer will be, because it depends on how much trouble we cause him and how much work he will have to do for us.

"The union does have to be self-supporting in every detail. Being a thoroughly reliable group of employees, we can take care of our own financial obligations."

Was that, or that in substance, said at that meeting?

A. I remember that being said at a union meeting, but I get confused on all of these dates. I can't keep up with the dates. But that was said at a union meeting.

Q. Was there ever, so far as your recollection goes, a meeting of the Donnelly Garment Workers' Union held at 3:45 in the afternoon?

A. No. I never attended a meeting or knew of a meeting being held only after working hours.

Q. Do you know what time of day the meeting of April 27 was held?

A. It was after working hours.

Q. What do you mean by that? I am asking you if you can fix the time of day.

A. I think most of them were held around 5 or 5:30, or something like that. I couldn't say about that particular meeting.

[fol. 5404] By Mr. Lane:

Q. Now, I have shown you Board's exhibit No. 8-21 and asked you to look at that briefly to refresh your recollection.

tion as to whether you attended that meeting of May 25, 1937.

A. Yes, I did.

Q. Did you attend the union meeting of May 25, 1937?

A. Yes, I did.

Q. Did you at that meeting discuss ways and means of raising money for the Loyalty League?

[fol. 5405] A. We never did discuss raising money for the Loyalty League at any union meeting, or discuss the Loyalty League in any way at any of our union meetings.

[fol. 5406] Q. Where was that meeting held?

A. On the second floor.

Q. Were there any employees of the Donnelly Garment Company at work, operating machines or doing any other work, at that meeting?

A. There were no employees on that floor. It was a vacant floor.

[fol. 5407] Q. Did Rose Todd say at that meeting, "For you people in here working, I want to advise you to work quietly."?

A. I don't remember hearing her say that. She may have.

Q. Did Hobart Atherton say at that meeting, "There seems to be a little misunderstanding as to why the Loyalty League needs this money and a little later on I will explain that to you."?

A. No.

Q. Was the union meeting of May 25 followed immediately by a meeting of the Loyalty League on that day?

A. We had a meeting of the Loyalty League sometime after that; I couldn't say just when it was.

Q. Was the union meeting on May 25 followed immediately by a Loyalty League meeting?

A. Oh, no. We never had a meeting, either one following the other—no two on the same day. I thought you meant days after that, or something like that. I never

attended two meetings on the same day, and I have never known them to have two on the same day.

Q. Did Rose Todd say at that meeting, "A motion has been made that we adjourn our union meeting and immediately open a Loyalty League meeting."?

A. No.

Q. Did Hobart Atherton say at the union meeting, "As Miss Todd has already told you, we have only one debt of [fol. 5408] the Loyalty League. A good many of you seem to be under the impression we have accumulated quite a lot of bills as we have gone along, but we have only one."?

A. No. I don't remember ever discussing the Loyalty League at a union meeting. We never discussed any affairs of the Loyalty League at a union meeting.

Q. When you collected 50 cents from the persons in your section shortly after March 30, 1937, did you do so as the Loyalty League representative?

A. No, I didn't.

Q. Were you the Loyalty League representative in your section?

A. No.

Q. Do you know who was?

A. No, I don't.

Q. Were these meetings of March 30, or thereabouts, 1937, and the organization meeting of the union on April 27, 1937, attended by large numbers of employees?

A. Yes.

Q. You mentioned that prior to July 1939, you had a club in your section you called "The 500 Pennies Club." How long had that been in existence?

A. Oh, for several years. I couldn't remember just how many years.

Q. What was the nature of that club?
[fol. 5409] A. Just a social club.

Q. Did you have officers?

A. Yes.

Q. Did you pay dues?

A. No, we didn't have any dues.

Q. What activities did you have?

A. We had dinner together—go out and have dinner together, and maybe go to a show. We always met once a month and had dinner together, and different things like that.

Q. In the evenings?

A. Yes.

Q. After work?

A. Yes.

Q. Had that club existed prior to the time the Loyalty League was formed?

A. Oh, yes.

Q. And continued to exist afterwards?

A. That's right.

Q. Did you know Lena Tyhurst in March and April 1937?

A. Yes.

Q. What did she do?

A. She worked with the inspectors.

By Mr. Lane:

Q. Did you think Lena Tyhurst was a supervisor or a [fol. 5410] boss?

A. No, I didn't.

Q. Did you know Mrs. Gray?

A. Yes.

Q. What did she do?

A. She was employed in the store.

Q. Did you ever see her in the store?

A. Oh, yes.

Q. What did you see her doing?

A. Well, when the girls would go in to buy dresses, belts, material, or anything like that, she would wrap it up for us.

Q. Was she, in your opinion, a supervisor or a boss?

A. No.

Q. Or manager for the company?

A. No.

Q. Did you know Mrs. Bogart?

A. Yes.

Q. What did she do?

A. She worked in the dividing department. She was an instructor.

Q. Did you have the opinion that she was a supervisor or a boss?

A. No, I didn't.

Q. Or representative of the management?

A. No.

[fol. 5411] By Miss Weyand:

Q. When you returned to work in March of 1937, you called up Mrs. Hyde, didn't you?

A. Mrs. Hyde called me.

[fol. 5412] Q. Were you working at the Donnelly Garment Company when the Loyalty League was formed?

[fol. 5413] A. Yes, I was.

Q. What do you remember of its formation?

Mr. Reed: Now, we make the objection that that is going back of the dates fixed by the Examiner.

Trial Examiner Batten: Well, I will make the same ruling I previously made.

Miss Weyand: Would the witness like the question read to her, or—

The Witness: Do you want me to answer?

Mr. Lane: I want the record to show the intervener makes the same objection, and I would like, instead of making the same objection to every such question, to have a continuing objection.

Trial Examiner Batten: You may have a continuing objection.

Mr. Reed: And that will go for the company, also?

Trial Examiner Batten: Yes. You may have a continuing objection to any ruling which I have made with respect to the Loyalty League, if any.

A. Well, I don't remember a lot about it, just offhand.

By Miss Weyand:

Q. What do you remember?

[fol. 5414] A. Well, we just had a group meeting and elected officers, and things, and formed the Loyalty League.

Q. Now, when you say you "had a group meeting", what group are you referring to?

A. The employees of the Donnelly Garment Company.

Q. Where was that meeting held?

A. I think, on the second floor, or— I am sure it was on the second floor.

Q. Who presided at that meeting?

A. I don't remember.

Q. What officers were elected at that meeting?

A. I don't remember that either.

Q. Did you attend other meetings of the Loyalty League?

A. Yes, I attended quite a number of them.

Q. Where were those meetings held?

A. In the same place.

Q. Who presided at any of those meetings, that you recall? A. Well, I remember Miss Todd.

Q. Do you remember anyone other than Miss Todd presiding at any of those meetings?

A. I can't remember.

Q. Were you ever a representative of your section in the Loyalty League?

A. I might have been. I don't remember.

[fol. 5415] By Miss Weyand:

Q. Who succeeded Rose Todd as president of the Loyalty League? A. Thelma Huffaker.

Q. Were you present at the meeting at which Thelma Huffaker was chosen as president? A. Yes.

Q. Do you know when that meeting took place?

A. No, I don't.

Q. Do you know who was present at that meeting?

A. It was sometime after we had formed our union—I remember that—and Miss Todd resigned as president because, she said, she had so many duties as president of our union that she couldn't take the responsibility of that also.

Q. Was that a mass meeting of all of the employees of the Donnelly Garment Company? A. Yes, it was.

Q. Do you know how the president of the Loyalty League was selected? Was it by a vote of the members, [fol. 5416] or was it by the vote of the representatives in the sections? A. It was by the members.

Q. Did the Loyalty League have a nominating committee? A. Yes, I think they did.

Q. Do you know how the nominating committee was chosen? A. Just from the members at large.

Q. That was at a mass meeting, was it? A. Yes.

Q. Do you know how the representative of each section of the Loyalty League was chosen?

A. I don't remember that.

Q. Did you ever attend a meeting at which Thelma Huffaker presided? A. I don't remember that.

Q. Do you remember whether on the occasion on which she was elected she was present? A. Yes, she was.

Q. Was she asked to come up and say a few words?

A. Yes. And she was introduced to the girls as the new president.

Q. Who introduced her as the new president?

A. Miss Todd, I think. I'm not sure.

Q. You don't know on what date that meeting was?

A. No, I don't.

Q. Was that meeting on the second floor?

[fol. 5417] A. I think so.

Q. You say you "think so." Is that correct?

A. We had most of our meetings on the second floor.

Q. It is your best recollection that the meeting at which Miss Todd introduced Thelma Huffaker was a mass meeting of the employees; is that correct?

A. It was a mass meeting when Thelma Huffaker was introduced as the new president, yes.

Q. And that was on the second floor?

A. I think it was.

.

Q. What is the first meeting you recall after you went back to work in March of 1937?

A. Of any kind, you mean?

Q. Yes.

A. Well, the first meeting I recall was shortly after I went back to work. They had already selected a committee [fol. 5418] to see an attorney, and we had a meeting, and they told us they had seen an attorney and we would have to have a \$500 retaining fee. That is the first one that I remember of.

Q. What was the last meeting before you went back to work at which you met with other girls from the Donnelly Garment Company?

A. Well, all of the time I was off sick I met with the girls in my club regularly.

Q. And that was at dinner once a month; is that right?

A. That is right.

[fol. 5419] Q. How were you selected to take up the 50 cents in your section?

A. Miss Todd asked me to take it up.

Q. Did you know Miss Todd personally?

A. Yes, I did.

Q. How long have you known her?

A. Well, quite a long time.

Q. How many years? A. Oh, I can't say.

[fol. 5424] By Miss Weyand:

Q. When did you first learn of the newspaper article reporting that Sylvia Hull had been elected to attend a convention, or chosen to attend a convention?

A. The next morning, when I went to work.

[fol. 5425] Q. You were working in section 415 at that time, is that correct?

A. I imagine I was, because that is the only section that I worked regularly in, but we had a 415 and a 415-A, and they were both special sections, but one was on one side of the room and the other on the other side of the room.

Q. Did you hear Ethel Riegel testify yesterday that she worked in section 415?

A. That's right, she did. We called them both 415, but they called one 415 and one 415-A; they were both special sections in one and the same section, but we had different instructors.

Q. Which were you in, 415 or 415-A?

A. I never worked in 415-A.

Q. Do you know whether Ethel Riegel was in 415 or 415-A? A. Well, she never did work in my section.

[fol. 5431] Q. Do you know each section of the Donnelly Garment Workers' Union had section representatives?

A. Do I know what?

Q. Whether each section of the plant had a Donnelly Garment Workers' Union representative?

A. No, they didn't. We just had eight representatives altogether, and there was one for the larger floors, and then where there was, you know, small groups of people there was one that represented two or three different groups, maybe.

[fol. 5439] By Mr. Langsdale:

Q. Mrs. Clayton, whom have you heard testify while you have been here in the courtroom and before you took the witness stand?

A. I just heard part of Ethel Riegel's, and part of Edith Dean's.

Q. Weren't you here when Mrs. Mudd testified?

A. No, I heard part of it, but not all of it. I just heard the first part of it.

Q. Then you heard part of three witnesses' testimony?

A. Just part of each of them, yes.

Q. I think I must have misunderstood your answer, when you were asked how you happened to go to the meeting of April 27. I have it here that you said, "Well, we had talked about it all the time," Had you ever talked about forming the union before you went to the meeting of April 27?

A. No. I mean we had talked about the strikes and discussed the violence and all that sort of thing.

Q. Yes, but you had never talked about forming a union?

A. And we talked of the meetings and all, but we [fol. 5440] didn't know anything about a union or even think about it, until Mr. Tyler talked to us.

Q. That is, you didn't even know why you were going to that meeting until you heard Miss Todd and Mr. Tyler speak, is that it?

A. We were going to hear what information Mr. Tyler had to give us.

Q. But you didn't know before you got to the meeting that there was going to be any union formed?

A. Why, no.

Q. You knew, did you not, that several weeks before April 27 the Gordon, Gernes, Missouri garment workers' strike had been settled?

A. I did know when they were settled, I don't remember the exact date.

Q. But it was settled before April 27, was it not?

A. I couldn't say as to that.

Q. You stated that you voted for the Donnelly Garment Workers' Union to escape violence, did you not?

A. That's right.

Q. There was no violence going on at that time in Kansas City, was there, that you knew of?

A. Well, there had been; that is the way they had been forming other unions, and they were still talking of organizing us. I had no reason to think they would do any different.

[fol. 5441] Q. Now, did Mr. Tyler's speech cause you to believe that forming the Donnelly Garment Workers' Union was to get away from the violence or the I. L. G. W. U.?

A. Well, naturally I thought if we had our own union that would be all that was necessary.

Q. How did you think that would protect you from violence?

A. Well, with our own union there would be no need for another one.

Q. But did you think the I. L. G. W. U. would just fold up and make no effort to organize the Donnelly Company?

A. I don't know; I should have known better, but I didn't.

Q. You say that Rose Todd asked you to collect the 50¢. Was that at the meeting she asked you that?

A. No.

Q. When did she ask you to collect the 50¢?

A. The next morning.

Q. Don't you remember at the meeting she said, "You can give your 50¢ to the representative of your department"? A. No, I don't.

Q. You didn't hear her say that?

A. No, I didn't.

Q. Did you hear her say, "If you want to give a dime at a time, that's all right"? A. I did not.

Q. Where were you when Rose Todd asked you to collect the 50¢?

[fol. 5442] A. I imagine I was probably where I undressed or something, I don't remember for sure; I remember that I collected the money, and she asked me, and I took the money to her, but I can't say exactly where that was when she asked me.

Q. Well, were you working at your machine?

A. Why, no.

Q. Why do you say "Why, no"?

A. Because we never talked during working hours, it was always before working hours or after working hours.

Q. Have you any recollection at all of where it was or when it was Rose Todd asked you?

A. I might have been in the wash room or downstairs, changing clothes, or I may have been working.

Q. Have you any recollection at all?

A. I don't know.

Q. Do you know why Rose Todd picked on you?

A. Well, I don't know. I was always active in things like that in my club. I was secretary and treasurer, and I used to take up money for showers and different things like that, and I imagine because I collected money in the section a lot would be the reason she did.

Q. Now, you said in answer to a question by Miss Weyand that you might have been a Loyalty League representative, but you didn't remember; is that correct?

A. I don't remember of being one, no.

[fol. 5443] Q. Do you mean to say that you could have been elected a Loyalty League representative and not remember?

A. I said I didn't remember it, didn't I?

Q. Well, you don't say you weren't a Loyalty League representative?

A. I couldn't have been at that time, because I just came back to work.

Q. You don't remember whether you ever were or not?

A. I don't remember ever being one, no.

Q. Do you know who the Loyalty League representative was in your section on the 30th of March, 1937?

A. No, I don't; we had several, I couldn't possibly remember any particular one.

[fol. 5444] Q. Now, why did you turn the money over to Rose Todd instead of some treasurer?

A. Why, it wasn't the Loyalty League that was getting the money. Why should I turn it over to the treasurer of the Loyalty League?

Q. Did you get a receipt from Rose Todd for it?

A. Why, no.

Q. Didn't you get any receipt to show how much you turned over to her?

A. I didn't get any receipt, and I didn't give any. I kept a list of the names of the girls as I collected from them, so I would know whom I had collected from; it wasn't compulsory for them to pay.

Q. Did you give a receipt to any of the girls you got the 50¢ from?

[fol. 5445] A. I did not.

Q. Did they all pay 50¢ at a time or did some of them pay a dime, or some less? A. They all paid 50¢.

Q. At a time? A. That's right.

Q. Now, did you collect 50¢ from your instructor?

A. I don't remember.

Q. Did you collect 50¢ from the thread girl?

A. I couldn't tell you whom I collected it from.

Q. Well, was there any reason—do you know anybody you collected any money from?

A. Well, no, no particular person. I know I collected from the girls in the section, but I don't remember who was there.

Q. Can you name one you collected the 50¢ from?

A. Just off-hand I couldn't. I could have put down a lot of them, if I had known you were going to ask me that.

Q. Well, you can take all the time you want to think about it now.

A. Well, I mean I could have asked the different girls which ones gave it to me.

Q. You can't remember it without them telling you?

A. Well, in a special section the girls change all the time. If you knew the way they worked, you would understand that, but not knowing that, you wouldn't understand.

[fol. 5446] Q. Well, you didn't change instructors during that time?

A. No.

Q. Who was your instructor during that period?

A. Etta Dorsey.

Q. Did you collect 50c from Etta Dorsey?

A. I don't remember.

Q. Was there any reason why you would pass her up in your collection efforts?

A. I don't remember who I collected from.

Q. Well, was there any reason why you shouldn't have collected from her?

A. No, I didn't see any reason why I should pass her up, but just to say I did, I couldn't, I don't know.

By Trial Examiner Batten:

Q. Do you know how much you turned over to Miss Todd?

A. No, I don't.

By Mr. Langsdale:

Q. Do you know what became of the money that was collected on that occasion?

A. It was collected to give to Mr. Tyler as a retaining fee.

Q. Well, do you know what actually became of it?

A. How could I possibly know, I wasn't there.

Q. Did you know that Mr. Tyler had already been paid when you collected the 50c?

A. How could Mr. Tyler have been paid?

Q. Well, did you know that?

[fol. 5447] A. Why should I know that?

Q. Miss Todd didn't tell you?

A. Why, no.

Q. Did anyone else tell you he was paid on the first of April, 1937?

A. We elected Miss Todd for our president because we all knew her and respected her, and knew her as an upright woman, and after all, it would be kind of hard for her to go around and tell each individual exactly, every employee she

met; she was working for our interest, and that was the thing.

A. No.

By Mr. Langsdale:

Q. Did Miss Todd tell you he had been paid on April 1, 1937?

A. No, why would Miss Todd tell me that?

Trial Examiner Batten: The question isn't why should she, the question is, did anyone tell you he was paid on April 1, 1937.

A. No.

By Mr. Langsdale:

Q. Did Miss Todd tell you when they were voting to collect the money on March 30, 1937, that she had been to the First National Bank on that day, and borrowed a thousand dollars in the name of the Loyalty League?

[fol. 5448] A. No.

Q. You didn't know that?

A. No, and I don't know of anyone else that does know it either.

[fol. 5449] Q. I hand you Board's exhibit No. 19 and ask you to examine it and state whether or not you ever saw that exhibit before.

(Thereupon Board's exhibit No. 19 was read by the witness.)

A. No.

Q. Never heard of it?

A. No.

Q. Do you recognize Miss Todd's signature there?

A. I wouldn't know Miss Todd's signature if I saw it.

Q. Did you learn, from Miss Todd or anyone else, that the money that you collected, the 50-cent piece, went to help pay this note shown by Board's exhibit No. 19?

A. No, I didn't.

Q. I show you Board's exhibit No. 13, which appears on page 4699 of the Circuit Court of Appeals record, and ask you to examine it and tell whether you ever heard of that check before.

A. No.

Q. That is a check dated April 1, 1937, made payable to Frank E. Tyler, signed "Nelly Don Loyalty League, Rose Todd, Pauline Hartman," is it not?

A. Yes; that's what it says.

Q. Draws on the First National Bank?

A. I don't see anything unusual about that.

Q. I am asking you if that isn't what this shows.

[fol. 5450] A. Yes.

Q. Did you ever hear of this check before?

A. No.

Q. Did Rose Todd tell you at any time, or did she ever tell anyone else, to your knowledge, that she had paid Frank Tyler by this check, Board's exhibit No. 13, on the first of April 1937?

A. I don't know how she paid him.

Q. Did she tell you that, or did anyone else tell you that?

A. No.

Q. Did you learn that the money that you collected, 50 cents at a time, was used to pay part of this note, Board's exhibit No. 19, on July 15, 1937?

The Witness: Would you please read that question?

(Thereupon the last question was read by the reporter.)

A. No.

Q. Did you learn that the 50-cent pieces that you had collected had not been deposited until the 13th of July 1937?

A. No, I didn't.

[fol. 5455] By Mr. Lane:

Q. Mrs. Clayton, when your machine is in operation can you hear the girl next to you in a conversational tone?

A. Not very well, no.

Q. Can you hear the girls that are farther down the section when all of the machines are in operation?

A. No, you can't.

[fol. 5456] LYDIA PHILLIPS, a witness called by and on behalf of respondent Donnelly Garment Company, being first duly sworn, was examined and testified as follows:

Direct Examination.

Trial Examiner Batten: What is your name?

The Witness: Lydia Phillips.

By Mr. Ingraham:

Q. Where do you live, Mrs. Phillips?

A. Parkville, Missouri, Route 2.

Q. Are you employed at the Donnelly Garment Company?

A. Yes, I am.

Q. How long have you been employed at the Donnelly Garment Company?

A. Since February 25, 1929, but I was off from work from January of 1934 until in January of 1935.

Q. In what capacity are you employed at the Donnelly Garment Company?

A. As an operator.

Q. What floor have you worked on?

A. Eighth floor.

Q. In what section?

A. I am in 413. I have worked in all sections on eight, though.

Q. Were you working at the Donnelly Garment Company during the months of March and April 1937?

A. Yes, I was.

[fol. 5457] Q. Are you a member of the Donnelly Garment Workers' Union?

A. Yes, sir.

Q. Do you recall when you joined the union?

A. I don't remember when. It was when they organized.

Q. When the union was organized?

A. When the union was organized.

Q. Do you recall whether or not that was about the 27th of April?

A. Yes, I believe it was around that time.

Q. Do you recall where the meeting was held when the Donnelly Garment Workers' Union was organized?

A. On the second floor.

Q. Do you recall the time of day?

A. Well, I should judge, around 5 or 5:10 in the evening.

Q. Had you finished your work that day?

A. Yes, sir.

Q. Now, did Mrs. Reed, Mrs. Reeves, Mr. Baty, Mr. Green, Mrs. Spilsbury, Mr. Bachofer, Mr. Keyes, Mrs. Keyes, or Ella Mae Hyde ever discuss with you the holding of that meeting?

A. No, they didn't.

Q. Did they ever discuss with you anything in connection with the union?

A. No, they didn't.

Q. Did they request you to go to the meeting?

A. No, sir.

[fol. 5458] Q. Did you see any of the people that I have named at that meeting?

A. No, I didn't.

Q. Did anybody that you thought represented the management request you to attend that meeting?

A. No.

Q. Did your instructor request you to attend that meeting?

A. No.

Q. Now, you stated that you joined the Donnelly Garment Workers' Union at that meeting. Do you recall who presided at the meeting?

A. At the meeting when it was organized, you mean?

Q. Yes.

A. Well, you mean the ones that—

Q. Well, did anybody act as chairman?

A. Yes.

Q. Do you recall who that was?

A. Rose Todd.

Q. Did any of the people that I have mentioned request you to vote to form the Donnelly Garment Workers' Union?

A. No.

Q. Did you vote in favor of forming the Donnelly Garment Workers' Union?

A. Yes, I did.

Q. Did you do that of your own free will?

[fol. 5459] A. I sure did.

Q. Now, prior to the date of that meeting did you know of strikes that were going on at the Missouri, Gernes, and Gordon garment companies in Kansas City?

A. Yes, sir.

Q. Did you read about the strikes in the paper?

A. I read of some.

Q. I will hand you respondent's exhibit No. 18, which is the front page of the Kansas City Times of March 18, 1937, and ask you if you recall seeing the pictures on that page, of strikers?

A. Yes, I remember seeing that.

Q. I will hand you respondent's exhibits Nos. 18 through 38, inclusive, and ask you if you will look at those exhibits and state which exhibits you recall reading in the paper; and as you go along, will you just state whether you read the exhibit or not?

A. (Referring to exhibits.) Well, exhibit 18, I might have read, but I don't take the Kansas City Journal-Post, and if I did read it, it was brought up there and I read it there. But I'm not sure that I read it.

This exhibit 19, I don't believe I read that.

I'm not sure about exhibit 20, because that is in the Journal-Post and I don't take it.

I think I read exhibit 21 down there at the factory. [fol. 5460] I didn't read exhibit 22. And I didn't read 23.

I remember reading 24. I also read 25.

26, I don't know whether I read that or whether I just heard them talking about it.

I read 27. And I believe I read 28. I read 29. Also, 30.

I didn't read 31. 31, I just heard them talking about it.

By Trial Examiner Batten:

Q. 31, you said?

A. 31. And I don't believe I read 32. 33, I believe I didn't read it, either. 34, I didn't read, but I heard them talking about it.

I read 35. I think I read 36. I'm not sure that I read 37, but I think I did. I read 38.

By Mr. Ingraham:

Q. What effect, if any, did the reading of the articles that referred to violence have on you?

A. Well, the violence— It just made me feel like I didn't want to belong to that organization.

Q. What organization are you referring to?

A. The I. L. G. W. U.

Q. Did you personally see any of the violence of those other strikes.

A. No, I didn't.

Q. Was there a general discussion of the strikes among the employees at the Donnelly plant?

[fol. 5461] A. Yes, there was.

Q. Was there a general discussion of these newspaper articles at the plant? A. Yes, there was.

Q. What effect, if any, so far as you could observe, did those articles have on other employees at the Donnelly plant?

A. Well, it kind of stirred up the plant down there, the employees.

Q. Was there a general discussion among the employees about the I. L. G. W. U. coming to the Donnelly plant next? A. Yes, there was.

Q. Had threats been made that that was what the I. L. G. W. U. intended to do? A. Yes, they had.

Q. Now, did the violence that was taking place at these other strikes have anything to do with causing you to vote to form the Donnelly Garment Workers' Union?

A. Yes, it did.

Q. Did you have any other reasons besides the violence that caused you to want to form a plant union?

A. Yes, I did. I read in the paper where it told about their guarantee, what their minimum wage would be in this I. L. G. W. U., and ours was far beyond that—above that, so I didn't feel like they could do us any good concerning wages.

[fol. 5462] Q. Did you object to joining the I. L. G. W. U.? A. Yes, I objected to it.

Q. I believe you stated that you read exhibit No. 27, which is an article that appeared in the Kansas City Star of March 17, 1937. The headline is "Sitters Block A Door." A. Yes, I read that.

By Mr. Ingraham:

Q. Do you recall whether or not at about the time this article appeared in the paper, or shortly thereafter, that a meeting of employees was held?

A. Yes, I remember that.

Q. Did the strikes at the Gernes, Gordon, and Missouri plants have anything to do with the holding of that meeting? A. Yes, it did.

Q. Do you recall the date on which that meeting was held?

A. I think it was the latter part of March.

Q. Do you recall whether or not it was about the time this article was in the paper?

A. I don't recall that, but it could have been around there. I know when these were taking place was when we called our meeting.

Q. Now, this meeting that you refer to, did any official of the company, or executive of the company, or anybody that you thought represented the management, discuss the [fol. 5463] holding of the meeting with you?

A. Not with me.

Q. Did you ever hear that the company wanted the meeting to be held?

A. No, I didn't hear that at all.

Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Mrs. Spilsbury, Mr. Keyes, Mrs. Keyes, or Ella Mae Hyde request you to attend that meeting? A. No, sir.

Q. Did you go to that meeting of your own free will?

A. I sure did.

Q. Do you recall when the meeting took place?

A. Well, it was in—

Q. I mean, was it after working hours, or—

A. It was after working hours, yes. Around 5 o'clock, 5:10, or somewhere in there.

Q. Do you recall on what floor? A. Second floor.

Q. Was the meeting generally attended by the employees? A. Yes.

Q. Was there quite a large number of employees there?

A. Yes, there was, to my recollection.

Q. Do you recall Mrs. Reed making some remarks at that meeting? A. Yes, I do.

[fol. 5464] Q. Do you recall how Mrs. Reed happened to come to the meeting?

A. No, I don't remember just how she come to come. I know they were talking about it, but I couldn't say how it happened.

Q. Did you hear Mrs. Reed make the statement that if the plant was unionized it would be closed?

A. No.

Q. Did you hear Mrs. Reed make the statement that she wasn't going to let Dubinsky tell her how to run her business? A. No; she didn't say that.

Q. Did Mrs. Reed make any statement with reference to the right of the employees to join or not join any labor organization?

A. No, I don't remember her saying anything—

Q. Do you recall any remarks that Mrs. Reed did make?

A. Yes, I remember, but I don't know whether I can word it just the way she said it. I do remember she said she wasn't going to let Dubinsky force her to force us into forming a union, or joining their union, the I. L. G. W. U., if we didn't prefer it—if that wasn't our wishes, to join the I. L. G. W. U.

Q. Do you recall anything said at that meeting about arranging for busses?

A. Yes, there was something talked about, about the busses.

Q. Did Mrs. Reed say the company was trying to arrange for busses?

[fol. 5465] A. Well, she said something about they were going to try to arrange for busses.

Q. Do you recall Mrs. Reed's stating, "I can't say at this time what will be done to protect you against violence, but the company's attorneys will consider what legal steps might be advisable?"

A. I remember her talking about that, but just what she said and how she said it, I don't remember. But it was talked about.

Mr. Ingraham: Do you recall at that meeting whether or not a committee was designated to call on lawyers to get legal aid?

A. I remember them saying something about that.

[fol. 5466] The Witness: I remember them saying something about it.

By Mr. Ingraham:

Q. Do you know who was named on the committee?

A. No, I don't.

Q. Now, will you state whether or not there was any meeting after this meeting that you have just testified about—any meeting between that meeting and the meeting at which the Donnelly Garment Workers' Union was organized, that you attended?

A. It seems to me like there was a meeting along about the last of March.

Q. Do you recall what occurred at that meeting on or about the last of March?

By Trial Examiner Ratten:

Q. Do you know whether there was a meeting?

A. Well, it was along the last of March or the first of April—in there some place—where they had a meeting and took up 50 cents to pay for—

Q. I say, do you recall a meeting there about that time?

A. Yes.

By Mr. Ingraham:

Q. And you say 50 cents was contributed by the employees?

[fol. 5467] A. Yes.

Q. Do you know the purpose of making that contribution?

A. For a retaining fee for a lawyer.

Q. Now, at the meeting the last of March—state when that meeting occurred, what time of day.

A. Around about 5 o'clock, if I remember right.

By Mr. Ingraham:

Q. Were you through work? A. Yes.

Q. Do you recall where the meeting was held?

A. On the second floor.

Q. Now, did any of the people I have mentioned, Mrs. Reed, Mr. Baty, Mrs. Reeves, and so forth,—did any of those people ask you to go to that meeting?

A. No, they didn't.

Q. Did any of those people ask you to contribute 50 cents? A. No, they didn't.

Q. Did you discuss with any of those people anything that occurred at that meeting?

[fol. 5468] A. No.

Q. Did any instructor request you to go to that meeting? A. No, nobody requested me to go.

Q. Did you go of your own free will? A. I did.

Q. Do you recall how you happened to hear that there was going to be a meeting?

A. Well, it was in talking to the girls. They would tell one another. That's the way I remember hearing about it.

Q. Now, at any of these meetings that you have testified about did the instructor in your section direct you to attend the meeting, and did you go as a body—all of the operators in the section go together? A. No.

Q. Do you recall whether or not you dressed before you went to the meeting?

A. Well, there might have been a time or two that I didn't dress, that I waited until after I got out of the meeting.

Q. Generally, what was your practice?

A. Dressing first.

Q. Do you recall when you got off work during March and April? A. When I got off work?

Q. Or what the regular time was?

A. The regular time was 4:10, but if we were working [fol. 5469] overtime, it was 5:10. But I don't remember whether we were working overtime at that time or not. If we were, that is when I went in my uniform, I expect, if we were working overtime.

Q. Now, did you understand that these meetings that you have referred to were Loyalty League meetings?

A. No.

Q. Did you ever hear anything said that caused you to believe that these meetings were Loyalty League meetings?

A. No.

Q. Did you ever attend a meeting of the Donnelly Garment Workers' Union that was immediately followed by a Loyalty League meeting? A. No, I didn't.

Q. Did you ever attend a meeting of the Donnelly Garment Workers' Union that was immediately preceded by a Loyalty League meeting? A. No, I didn't.

Q. Did you ever hear at a Donnelly garment workers' meeting any suggestion or discussion for raising money for the Loyalty League?

A. I don't remember anything of that sort.

Q. Now the meeting at which you testified 50 cents was contributed—did you make that contribution to the Loyalty League? A. No.

[fol. 5470] Q. Did you make it for any purpose of the Loyalty League?

A. No, I didn't.

Q. I don't think I asked you: Do you recall when you gave your 50 cents at that meeting in the latter part of March or the first of April?

A. I can't remember whether I gave it that evening or the next day. I gave it, but I don't remember when.

Q. Do you remember whom you gave it to?

A. I don't even remember that.

Q. Did the fact that Rose Todd took an active part in the meetings that you have testified about cause you to believe that the meetings were Loyalty League meetings?

A. No, sir.

Q. Did you believe that the Loyalty League sponsored the Donnelly Garment Workers' Union?

A. No, I didn't.

Q. Did you know of any connection between the Loyalty League and the Donnelly Garment Workers' Union?

A. Not any at all.

Q. I believe you stated that you read the article that appeared in the paper on April 22, which is contained in respondent's exhibit No. 35. The article is entitled "Donnelly Worker Will Be Sent To Union Convention."

A. I read that.

Q. Do you recall reading the part that stated, "Perlstein said the Donnelly committee desired one of their number to appear at the convention and asked the International body to endorse and support a strike against their employer . . .?"

A. I read that.

Q. Did you want a strike in the Donnelly plant?

A. No, I didn't.

Q. Did you state whether or not you believed that a strike by the International would involve violence?

A. Yes, that's the way I felt about it.

Q. What effect did this article have on you?

A. Well, I didn't like it very well, because I didn't know that there was anybody in there that would do anything like that, because we were all so well satisfied there that it didn't seem to me that there could be anyone there at all that could be dissatisfied and let somebody else talk them into the notion of going some place else to represent us.

By Trial Examiner Batten:

Q. You mean the employees would have to be dissatisfied to have a union? Is that what you mean?

A. Well, it seems as though— I don't know. I didn't mean it just like that.

Q. You said "dissatisfied"—you didn't know there was anyone "dissatisfied."

A. Well, I didn't, because I felt like if anyone did go, they would have to have some reason for it.

[fol. 5472] By Mr. Ingraham:

Q. Had you heard that the I. L. G. W. U. had made charges that the Donnelly workers were poorly paid?

A. I heard that.

Q. I will hand you respondent's exhibit No. 41 and ask you to look at that circular and read it, please.

(Thereupon respondent's exhibit No. 41 was read by the witness.)

[5473] Q. Do you recall circulars like that exhibit being distributed at the Donnelly plant by the I. L. G. W. U. members about the time the first meeting of employees was held, the one you testified about?

A. I don't remember of this particular one.

Q. You don't remember that particular one?

A. I don't remember this one.

Q. At the meeting of March 18, where Mrs. Reed spoke, did you see or hear Mrs. Reed read a letter from the I. L. G. W. U.?

A. No, I don't remember that at all.

Q. I will ask you to read respondent's exhibit No. 6, and ask you if you recall reading this article in the Kansas City Times of February 26, 1937.

A. Yes, I remember reading it.

By Mr. Ingraham:

Q. Did you recall in this article the statement: "We are going to send a letter to the Donnelly Company within a week, suggesting a conference to establish collective bargaining on questions of wages and working hours. If the firm refuses we will go to the consuming public of the company, and advise buyers of wages and hours prevailing there now." Do you recall reading that in this article?

A. I remember reading some of it.

Trial Examiner Batten: Do you remember reading that?

A. I remember reading that, but word for word I wouldn't remember it.

By Mr. Ingraham:

Q. Do you recall this statement: "The union claims only 25 members among the Donnelly workers, but officials said hundreds of others are related to the union members, and within a year we will have it completely organized, and as soon as we have enough members we will call a strike. This will be in addition to carrying our side to the consumers." Do you remember reading that?

A. Yes, I remember reading it.

Q. Did you want the I. L. G. W. U. to call a strike at the Donnelly plant?

A. No, I didn't.

Q. Did you want the I. L. G. W. U. to send representatives to the customers of the Donnelly Company?

A. No, I didn't.

Q. Why didn't you?

A. Well, because we didn't want the I. L. G. W. U. in there.

Q. Why didn't you want the I. L. G. W. U. to send representatives to the customers of the company?

A. Because it would hurt our work.

Q. Did you feel that it might result in your not having work?

A. That's right.

Q. Now, did you understand that Sylvia Hull was going to the International Convention to ask the International to carry out this program?

A. Well, I read that she was going, but I didn't know at that time what she was going for.

Q. Well, did the article that you read state that she was going to ask support for a strike? Do you recall that in the article?

A. Yes, I recall that.

Q. Now, did you observe what effect the article that referred to Sylvia Hull going to the International Convention had on other employees?

A. Well, they didn't seem to like it a bit.

Q. Were you at the plant the following morning after the article had appeared in the paper?

A. Yes, I was.

Q. And what floor were you on?

A. On the eighth floor.

Q. Did you see Sylvia Hull on the eighth floor that morning?

A. Yes, I did.

Q. What section did you say you worked in?

[fol. 5476] A. I worked in 414.

Q. Where was that with reference to the section Sylvia Hull worked in?

A. Well, she worked on the south side of the building, and I was in the next section.

Q. You were in the next section?

A. In the next section.

Q. Did you go over to Sylvia's section?

A. Yes, I did.

Q. Did other employees go over there?

A. Yes.

[fol. 5477] Q. How long did you stay over in Sylvia's section?

A. I didn't stay over there, I just walked over there and came back.

Q. Did this article that appeared in the paper in connection with Sylvia Hull have anything to do with you voting in favor of forming the Donnelly Garment Workers' Union?

A. Yes, it did.

Q. What effect did it have on you?

A. Well, it made me feel like stronger than ever I wanted a union of our own in there.

Q. Did you object to Sylvia representing you?

A. Yes.

[fol. 5478] By Mr. Ingraham:

Q. Did you hear any girls say that they did not want to work so long as Sylvia stayed there?

A. I didn't hear them say it, I heard about it afterwards, but I didn't hear them say it.

Q. Did you observe that that was the feeling among the employees?

A. Yes.

Mr. Langedale: Just a moment. I object to that as an incompetent conclusion, that she could not draw from what she answered before; she heard no one say that, and how could she observe that that was the feeling among the employees when she heard nothing said.

Trial Examiner Batten: What was the basis of your observation, if that is the way you felt?

A. I didn't hear them.

Mr. Ingraham: She has testified she didn't hear them say it at the time.

Trial Examiner Batten: I am asking her about at the time. How long afterwards did you hear them talking about it?

[fol. 5479] A. Well, it was up in the day, but I didn't hear them say anything at that time.

By Trial Examiner Batten:

Q. When did you hear them say anything?

A. Sometime during that day.

Q. Sometime during that day?

A. Yes.

Q. What did you observe that led you to believe that was the way they felt?

A. Because they were talking about it during the day; some of them said they wouldn't work if she stayed in there.

Q. And that was the basis of your statement?

A. Yes, it was.

By Mr. Ingraham:

Q. Well, at the time Sylvia was there, did you see any of the employees not working?

A. Well, there were a lot of them working, but they were getting up a few at a time, you know, and going over there and coming back, but how long I don't know; I don't know how long it lasted.

Q. Well, were there employees that weren't working at the time, that did not work?

A. You mean—

Q. (Interrupting) While Sylvia was on the floor.

A. I don't know whether they did or not, whether they were working or not.

[fol. 5480] Q. Are you a member of the Loyalty League?

A. Yes.

Q. Do you recall about when you joined the Loyalty League?

A. Oh, it was after I came back to work in 1935, but I don't remember just when. It was after they had organized.

Q. What activities did the Loyalty League engage in?

A. In social activities.

Q. Did you pay any dues to the Loyalty League?

A. No, I never did.

Q. Did you ever hear of the Loyalty League dealing with the company with respect to wages and hours and terms and conditions of labor of the employees of the company? A. No, I didn't.

Q. Did you ever authorize the Loyalty League to represent you in connection with any labor matters? A. No.

Q. Did you ever hear of any other employee authorizing the Loyalty League to represent him or her in connection with any labor matters? A. No, I never did.

Q. Did you join the Loyalty League of your own free will? A. Yes, I did.

Q. Did you feel that you would be penalized by the company if you didn't join the Loyalty League? A. No. [fol. 5481] Q. Did you understand or gain the impression that the Donnelly Garment Workers' Union was a successor to the Loyalty League? A. No.

Q. Will you state whether or not the Loyalty League continued after the formation of the Donnelly Garment Workers' Union? A. Yes, it did.

Q. Will you state whether or not you signed a petition that had the same writing that appears at the top of I. L. G. W. U. exhibit No. 10, appearing in the Circuit Court record at 5961? A. Yes, I signed this.

Q. Do you recall the petitions had the date mark of March 2? A. Well, yes, I do remember.

Q. Now, do you recall that this petition was circulated a few days after the article that you have read, which quoted from Mr. Perlstein?

A. I remember it was after that, but I don't remember how many days it was.

Trial Examiner Batten: What article was that, Miss Witness? After what article?

A. That article that I read about Perlstein.

By Trial Examiner Batten:

Q. What was it?

A. That was where Perlstein was going to try to organize us. I can't recall just the words.

[fol. 5482] Q. Oh, you mean one of those exhibits Mr. Ingraham showed you, is that it?

Mr. Ingraham: Yes, of February 26.

A. I can't quote the words, but I remembered what it was about.

By Mr. Ingraham:

Q. That was the article where Mr. Perlstein stated, "Within a year we will have it completely organized, Mr. Perlstein said, and as soon as we have enough members, we will call a strike." Is that the article you were referring to?

A. That is the article I was referring to.

Q. Do you recall who presented the petition of March 2nd to you?

A. No, I don't remember who it was, which one it was. There was two girls, Mary and Inez, that is all I knew; it was one of the two girls, but I don't remember which it was.

Q. Did either of those two girls hand you the petition?

A. One of them handed me the petition.

Q. Did they say anything to you when they handed you the petition?

A. They just handed it to me and told me to read it.

Q. Did they ask you to sign it? A. If I cared to.

Q. And did you read it? A. Yes, sir, I read it.

[fol. 5483] Q. And did you sign it of your own free will? A. Yes, I did.

Q. Did you feel that you would be penalized by the company if you did not sign it?

A. No, I didn't feel that way.

By Mr. Ingraham:

Q. Do you recall a sentence, part of a sentence, which reads: "And refuse to acknowledge any union labor organization," in the petition?

A. Yes, I remember that.

Q. Did you have in mind any particular labor organization at the time you signed this? A. I. L. G. W. U.

Q. Did you want Mrs. Reed to understand that that was your view? A. Yes, sir.

By Mr. Ingraham:

Q. Did you also want Mrs. Reed to understand your [fol. 5484] views about your appreciation of the treatment you had received from the company? A. Yes.

Q. Now, did you understand that this petition was being circulated by the Loyalty League?

A. No, I didn't understand it that way.

Q. Was anything said to you about the Loyalty League when the petition was presented to you? A. No.

Q. Did the fact that instructors joined the Donnelly Garment Workers' Union lead you to believe that the union was sponsored by the company? A. No.

Q. Will you state whether or not you considered instructors as bosses? A. No, I didn't.

By Mr. Ingraham:

Q. Did the fact that instructors attended the meeting of March 18 and the meeting the latter part of March or [fol. 5485] the first of April lead you to believe that the company was sponsoring those meetings? A. No.

Q. I will hand you respondent's exhibit No. 7 and ask you to please read this article that appeared in the Kansas City Journal-Post of March 6, 1937.

A. I read that, I read most of it; I don't know that I read it clear through, but I did read most of it.

Q. I mean at the time it appeared in the paper?

A. Yes, at the time it appeared in the paper.

Q. Do you recall the statement attributed to Mr. Dubinsky where he stated: "Mr. Reed said many harsh things about me during the recent political campaign"?

A. I remember reading that.

By Mr. Ingraham:

Q. Did that statement by Mr. Dubinsky that Mr. Reed had said many harsh things about him in any way influence you in joining the Donnelly Garment Workers' Union?

A. No, that didn't.

Q. Did you hear Mr. Reed make any speeches in the [fol. 5486] 1936 campaign? A. No, I didn't.

By Mr. Ingraham:

Q. Did you ever hear Senator Reed say anything about Mr. Dubinsky?

A. I never did hear him say anything until I got up here in the courtroom.

Q. Did you ever read in the paper, that you recall, anything that Senator Reed said about Dubinsky?

A. I read some articles, but I don't remember what they were, about Dubinsky and Mr. Reed.

Q. Well, did those articles influence you in any way against the I. L. G. W. U.? A. No.

Q. Will you just glance at Board's exhibit 27 and state whether you recall reading that?

A. I don't remember reading this at all.

Q. Did any thread girl ever request you to attend any meeting?

[fol. 5487] A. No.

Q. Did you consider a thread girl a boss?

A. No, I didn't.

Q. Did the fact that the thread girls joined the Donnelly Garment Workers' Union lead you to believe that the company was sponsoring the union?

A. No, it didn't.

Q. Did the fact that thread girls attended the March 18 meeting and the meeting that you testified occurred the latter part of March or the first of April, or the meeting of April 27, did the fact that the thread girls attended those meetings lead you to believe that the company was sponsoring those meetings? A. No.

Q. Have you continued to remain a member of the Donnelly Garment Workers' Union of your own free will? A. Yes, I have.

Trial Examiner Batten: You mean up to July, 1939?

Mr. Ingraham: Yes, up to July, 1939.

Cross-Examination.

By Mr. Lane:

Q. Mrs. Phillips, in 1937, in March and April, did you know Rose Todd? A. Yes, I did.

[fol. 5488] Q. How long had you known her?

A. I don't remember how long I had known her.

Q. Did you know her well or only casually?

A. Well, I didn't know her well.

Q. In March and April 1937, what did you observe Rose Todd doing about the factory?

A. Well, she—I don't know, I never did know just exactly what you would call her job, but she did come into our section.

Q. What did she do when she came to your section?

A. Well, I knew she was always doing something about the bundles, but I didn't know what it was all about.

Q. Did you ever have the impression from anything you saw Rose Todd do, that she was a supervisor or a boss or supervisory employee? A. No.

Q. Did Rose Todd ever say anything in that period that led you to believe she regarded herself as being a supervisory employee? A. No.

Q. Did you know Hobart Atherton?

A. I knew of him, but I didn't know him.

Q. Did you know Sallie Ormsby?

A. I don't remember whether I knew her at that time or not.

Q. Did you know Ethel Riegel?

A. No, I didn't know her.

[fol. 5489] Q. Did you know Arch Lyle?

A. No, I didn't.

Q. Did you know Lena Faulconer? A. No.

Q. Did you know Eva Lieberman?

A. No, I didn't know her.

Q. Did you know Mrs. Riggs?

A. No, I didn't.

Q. Or Lyle Jeter? A. Yes.

Q. What did he do? A. He was a mechanic.

Q. Did you know Carl Crawford? A. Yes.

Q. What did he do?

A. As far as I knew, he was working in the cutting department.

Q. Did you know Cordelia Taylor? A. No.

Q. Or Leona Moore? A. Yes.

Q. What did she do?

A. She was an operator.

Q. What section was she in, do you remember?

A. I don't remember what section she was in; she worked on seven, sometimes, and she worked on eight, so [fol. 5490] I couldn't tell you what section.

Q. Did you know Ellen Nokes? A. No.

Q. Virginia White?

A. No, I didn't know Virginia White.

Q. Did you know Fred Brown? A. Yes.

Q. Did you know what he did?

A. He worked in the cutting department.

Q. Did you know Mamie Riddle? A. Yes.

Q. What did she do? A. She was an operator.

Q. Do you know where?

A. Up on the eighth floor.

Q. Where did you say Sallie Ormsby was?

A. I don't know; I don't think I knew Sallie at that time.

Q. Did you know Anna Richards?

A. No, I didn't know her.

Q. Marjorie Green? A. I knew of her.

Q. Did you know where she worked?

A. She worked in the office.

Q. Did you know Jack McConaughy? A. Yes.

[fol. 5491] Q. Did you know where he worked?

A. He worked in the mechanic's cage.

Q. Did you know Charlotte Casey? A. No.

Q. Did you know Hazel Saucke? A. Yes, I knew her.

Q. Did you know what she did?

A. She was an operator.

Q. Did you know Anna Reese? A. No.

Q. Was there any of the persons I have mentioned that you regarded as being a supervisory employee or a boss or a representative of the management?

A. No, there wasn't any of them.

Q. When you voted on April 27th in favor of forming an independent plant union, did you cast your vote of your own free will? A. Yes, I did.

Q. Was there anything that you can recall that any of the executives or the supervisors of the company had done that you thought indicated any pressure or intimidation or coercion on their part to cause you to join any union or stay out of any union? A. No.

[fol. 5492] Mr. Lane: Mrs. Phillips, you say you were away from the Donnelly plant from January 1934, to January 1935? A. That's right.

Q. And when you returned you went into section 413?

A. That's right.

By Mr. Lane:

Q. Do you know who the instructor was in section 413 when you went back? A. Ada Vining.

Q. What did the instructor do in March and April, 1939?

Mr. Langsdale: You mean 1937, don't you?

Mr. Lane: Did I say "1939"?

Mr. Langsdale: Yes.

Mr. Lane: Excuse me. I meant 1937.

The Witness: What was that question?

By Mr. Lane:

Q. What did the instructor do?

A. She instructed us how to sew our operations—to do our operations that we were supposed to do.

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[fol. 5493] Q. Did the instructors, so far as you knew, have any authority to discipline the operators? A. No.

Q. What did the thread girl do? A. She gave out the thread, the binding, shoulder tapes, and belt loops.

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Q. Where were you working in March and April of 1937? A. I worked in 414 for a while, and 412.

Q. Do you remember who the instructors were in those two sections?

A. Well, at that time Ada Vining was over there—at one time, and Mrs. Allison, and—I don't remember whether Lola Skeens was there at that time or not, she could have been.

Trial Examiner Batten: You mean they were in these two sections at different times? A. Yes.

By Mr. Lane:

Q. Did you have the opinion that Ada Vining or Mrs. Allison or Lola Skeens was your boss or your supervisor?

A. No.

[fol. 5494] Q. Do you know who the thread girls were in sections 414 and 412 in March and April of 1937?

A. No, I don't remember who they were.

Q. Did the thread girls, so far as you know, have any authority to hire and fire employees in the sections?

A. No.

Q. Or to transfer them from one section to another?

A. No, they didn't.

Q. Or to discipline the employees? A. No.

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By Mr. Lane:

[fol. 5497] Q. Mrs. Phillips, did you belong to a club in your section in March and April, 1937? A. I did.

Q. What was that club called? A. The By-Jingo.

Q. Did you have officers? A. No.

Q. What did that organization do?

A. Well, they had social gatherings after work in the evenings, and went out to dinner and shows together and had picnics.

Q. Do you know when that club was formed?

A. No. It was formed before I came back to work, [fol. 5498] during 1934 sometime.

Q. Did it continue to exist up until July 1939?

A. Yes, it did.

Q. Did you know Lena Tyhurst in March and April of 1937? A. Yes, I did.

Q. What did she do? A. She was an inspector.

Q. Did you look upon her as being a supervisory employee or a person held out by the management as speaking for the management in labor matters?

A. No, I didn't.

Q. Did you know Mrs. Gray?

A. Yes, I knew Mrs. Gray.

Q. What did she do?

A. She was clerk in the store.

Q. How long had you known her?

A. I don't remember how long I knew her, but I did know her.

Q. How frequently did you see her in the store?

A. About every day.

Q. What did you see her doing in there?

A. Clerking—waiting on the employees.

Q. Was she, in your opinion, during March and April 1937, a supervisor of the company? A. No.

[fol. 5499] Q. Did you know Marvin Price?

A. Yes, I did.

Q. What did he do? A. He was a mechanic.

Q. During this period we are talking about was Marvin Price, in your opinion, a supervisory employee of the company? A. No.

Q. Was there anything he did or said that indicated that he held himself out as being a representative of the management in connection with labor matters? A. No.

Q. Was anything ever said by any of the executives of the company that indicated that Marvin Price was their representative in labor matters? A. No, I don't recall anything.

Q. Did you know Mrs. Bogart? A. No.

Q. Did you know Ted Scoles? A. No, I didn't.

Q. Did you continue to belong to the Donnelly Garment Workers' Union down to July of 1939 of your own free will? A. Yes, I did.

Q. Did you go to the meetings of the Donnelly Garment Workers' Union after May of 1937?

A. Some of them; not all of them.

[fol. 5500] Q. When you went to the meetings did you go in your uniform or did you change to your street clothes? A. Changed to street clothes.

Q. Do you know what the quitting hour of your section was in March and April of 1937?

A. Well, it was the regular hours. It was 4 o'clock or 4:10.

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By Miss Weyand:

Q. You have stated, I believe, that at the time of the Sylvia Hull demonstration you were working in section 414. Is that correct? A. That is right.

Q. Now, you said 414 was next to 412. Could you tell us which side it was next to?

A. On the north side.

Q. It was on the north side of 412; is that correct?

A. That is correct.

Q. And both 412 and 414 were located on the west side of the building; is that correct?

[fol. 5501] A. That is correct.

Q. Which row of 414 were you sitting in?

A. In the south row.

Q. Were you facing Sylvia Hull, or did you have your back to her?

A. I was facing— Well, I sat at one end and she was at the other end, and we faced one another.

Q. You were facing south; is that correct?

A. That is correct.

Q. And she was sitting across the south wall of the building, facing north; is that correct?

A. That is correct.

Q. How long had you been at work before you walked over to Sylvia Hull's machine?

A. I don't believe I went to work. I sat down to work, but I hadn't worked any. If I remember right, that's the way it was.

Q. When did you start work that morning?

A. Well, I will have to stop and think, because I have been in so many different sections and so many different kinds of work. I think it was 20 minutes to 8.

Q. That was the time you were supposed to start to work? A. If I remember right.

Q. What time did you begin work, if you recall?

A. It wasn't very long afterwards, because I didn't stay [fol. 5502] over there very long.

Trial Examiner Batten: Will you keep your voice up, please?

By Miss Weyand:

Q. How long did you stay over there?

A. I just went over there and came right back.

Q. Did some other girls from your section go over at the same time you did?

A. Another girl right there next to me did.

Q. Do you remember her name?

A. If I remember right, it was Amy—somebody—Epperson, I believe, and Dessie Horak.

Q. Had you read the newspaper article before you walked over to Sylvia Hull's machine? A. Yes, I had.

Q. Where did you read that article?

A. On the floor, the eighth floor.

Q. Do you remember who showed it to you?

A. No, I don't remember that.

Q. Did you hear any girl state that she, herself, would not work so long as Sylvia Hull was working for the company? A. No, I didn't hear them say that.

Q. But you heard other girls say that some girls had made such statements; is that correct?

A. During the day I did.

Q. Do you remember how early you heard that report? [fol. 5503] A. No, I don't remember.

Q. Was it in the morning?

A. I can't remember that. I know it was during that day that I heard it.

Q. Could you state your best recollection of just what you did hear?

A. Well, I heard that there were some girls over there said they wouldn't work there as long as she worked there. I do remember that, but nothing more.

Q. Do you remember seeing any girl who sat at her machine and refused to work?

A. No, I don't remember that.

Q. Do you remember whether other girls in your section were working that morning while Sylvia Hull was still on the floor? A. In my section?

Q. Yes. A. Yes, they were working.

Q. Could you see whether—

Trial Examiner Batten: Did you say some of them were working?

A. Some of them were working, because some of them had got up and walked over there.

By Miss Weyand:

Q. Could you see whether the girls in Sylvia Hull's section were working?

[fol. 5504] A. I could have seen, I guess, if I had looked, but I didn't pay any attention to that part.

Q. And when you walked over to Sylvia Hull's machine, you don't know whether the girls were working in that section or not? A. I don't remember.

Q. Was Sylvia Hull sewing when you went over there?

A. Yes.

Q. Did she have on an International Ladies' Garment Workers' button when you went over there?

A. If she did, I didn't see it.

Q. Did she have on a Loyalty League button when you went over there? A. I didn't see that.

Q. Do you remember how long girls continued to go over to Sylvia Hull's machine that morning?

A. No, I don't remember.

Q. Were you working in section 414 all during March, as well as April, 1937?

A. Well, I don't remember. I went over to work in 412, but I don't remember whether it was during those two months or not. I couldn't say.

Q. Who was the instructor of 414 at that time?

A. If I remember right, it was Ada Vining.

Q. When did you join the Loyalty League?

[fol. 5505] A. Well, it was sometime after it was organized, but I don't remember how long.

Q. Where were you when you joined? A. I was in 413.

Q. Did you join at a meeting or did you join in your section? A. I was in my section.

Q. Do you know who the officers of the Loyalty League were?

[fol. 5506] A. Well, Rose Todd was the chairman; I know that.

Q. Did you know of any other officers of the Loyalty League? A. No, I don't recall any others.

Q. Did your section have a representative in the Loyalty League?

A. I think it did, but I don't remember who it was.

[fol. 5507] Q. Prior to July 15, 1939, did you ever see a notice passed through the section announcing a meeting of the Donnelly Garment Workers' Union?

A. No.

Q. When you signed the Loyalty petition of March 2, 1935, was more than one sheet presented to you?

A. I don't remember. I know there was one long sheet, but I don't remember whether there was more than one there or not; it seems to me like there were, and they were pinned together. I wouldn't say for sure.

Q. Was it passed through your section?

A. I don't know that. She gave it to me, one of the girls did.

[fol. 5508] Q. Had you seen anyone else sign it prior to your signing it?

A. I saw the girl next to me signing something, but I didn't know what it was until she handed it to me.

Q. Did Mary Sprofera or Inez Warren stand there and hand it to each girl down the section?

A. I don't know if they did before they came to me or not. After they handed it to me they went down the line with it.

Q. Did you notice whether there was the date March 2, 1937, on the sheet you signed?

A. I don't remember that at all.

[fol. 5509] Q. I would like to have you look at International Ladies' Garment Workers' Union exhibit No. 10, at page 5966 of the record, which is also in the record at 5380, and state whether or not the name Lydia Phillips, which appears in the second column of that page, about two-thirds of the way down, is your signature.

A. That looks like my writing.

Q. That is your signature?

A. That is my signature.

Q. Did you notice the other names on this sheet when you signed it? A. No, I didn't.

Q. Would you know who Oscar Steinborn is, being the sixth signature in the first column of the same page?

A. No, I don't.

Q. You don't know Oscar Steinborn? A. No, I don't.

[fol. 5512] Q. Did you sometimes have to make repairs on your own time?

A. Well, I might have sometimes, but I can't recall any [fol. 5513] one certain time.

Q. Do you know whether you were usually paid when you made repairs?

A. Well, if I didn't quite make my guarantee by having repairs, I got my guarantee, so I figured I was paid for it.

Q. If you were making your guarantee anyway—making more than your guarantee, as you sometimes did, didn't you? A. Oh, yes, most of the time I did.

Q. On those occasions when you had to make repairs, did you get paid piece rate prices for the time you spent making the repairs? A. No.

Q. Did you get paid anything for making the repairs?

A. That would just depend on whether it was really my fault or the fault of something else.

Q. What other cause might there have been for having to make a repair?

A. Well, if the notches were wrong, or if it was cut wrong, or something—you know—on that order.

Q. Who determined whether you got paid for making the repairs? A. Mr. Baty did at that time.

Q. Who brought you the repairs when you had to make them? A. The instructor brought them.

Q. Who handed you your weekly pay check?

A. It was handed to me by the thread girl or the instructor.

[fol. 5514] By Miss Weyand:

Q. Did you have a special operation which you performed?

A. Yes, I did.

Q. What was it?

A. Setting collars.

Q. Did you sometimes do other work than setting collars, or, prior to July 15, 1939, did you just set collars?

A. I did other work, too.

Q. When would you do other work?

A. Well, when collars run out we would do other work.

Q. Who determined what other work you did when the collars ran out?

A. The instructor.

Q. You stated this morning that certain articles which contained accounts of strikes influenced you in forming the Donnelly Garment Workers' Union. Is that correct?

A. That is correct.

[fol. 5515] Q. And you also stated that a certain article which contained a statement by Mr. Reed about Mr. Dubinsky did not influence you?

A. No, I didn't.

Q. You didn't state that?

A. I didn't say it.

Q. You said you had read some articles containing speeches of Mr. Reed's about Mr. Dubinsky, didn't you?

A. Yes.

Q. And you say now they did or did not influence you?

A. They didn't influence me.

Q. They did not?

A. They did not.

Q. How do you explain that certain articles did influence you and certain other articles did not influence you?

A. Well, because those other articles, of the strike at the Gernes, Gordon, and Missouri plants—we didn't want to have any strikes up there where we were, and I signed to join our union to keep them out.

Q. How do you know that the articles which you read containing speeches by Mr. Reed about Mr. Dubinsky did not influence you?

A. Because I figured that was a quarrel or fuss, or whatever you want to call it, between Mr. Reed and Mr. Dubinsky that didn't concern us, because Mr. Reed didn't [fol. 5516] have anything to do with our factory.

Q. Can you remember back now and remember how you felt when you read each of the articles which you have discussed here?

A. Well, I don't know that I can— It's kind of hard to put it in words. You mean the writing in there on Mr. Dubinsky and Mr. Reed?

Q. Each of the articles, I have reference to; not distinguishing now about strikes and violence and the ones that contained the speeches. What is there to make you remember how you felt when you read those articles?

A. Do you want me to tell you?

Q. Yes.

A. I remember this: When that came up about Mr. Reed and Mr. Dubinsky, I figured if Mr. Reed and Mr. Dubinsky couldn't get along, why did Mr. Dubinsky want to get through our factory to get to him and take his spite out on us?

Q. Did that influence you at all, that way of thinking about it?

A. It didn't influence me, because we wanted a union of our own, but it did make me mad, that Mr. Dubinsky wanted to take his spite out on us to get at Mr. Reed.

Q. Did it influence you, that Mr. Reed had said Mr. Dubinsky wanted to organize the plant solely because of political animus?

A. No.

[fol. 5517] Q. You said that made you mad, didn't you?

A. It made me mad that way, yes.

Q. That didn't have anything to do with your feeling about the union?

A. No.

Q. But it made you mad?

A. It made me mad. Lots of things made me mad that didn't have anything to do with the union.

Q. When you got mad about the other articles, about the strikes, how did that have anything to do with how you felt about the union?

A. Because they were referring to the factories, and our factory was one of the factories in Kansas City.

Q. Wasn't the idea you expressed, that the International Ladies' Garment Workers' Union was trying to organize the Donnelly Garment Company because of a feud between Mr. Reed and Mr. Dubinsky, something that affected the garment factory, too?

Mr. Reed: I object to that as an improper question. It has all been gone over and canvassed thoroughly. It is incompetent and immaterial.

Trial Examiner Batten: Do you understand the question, Miss Witness?

The Witness: I don't believe I got it.

Mr. Reed: I object to it as incompetent and immaterial [fol. 5518] and not proper cross-examination.

Trial Examiner Batten: Objection overruled.

Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Wasn't the idea you expressed, that the International Ladies' Garment Workers' Union was trying to organize the Donnelly Garment Company because of a feud between Mr. Reed and Mr. Dubinsky, something that affected the garment factory, too?")

* Trial Examiner Batten: Did you say you didn't understand it?

Mr. Reed: I don't understand the question.

Trial Examiner Batten: Let's find out if the witness does.

The Witness: I don't quite get it, no.

Trial Examiner Batten: Will you restate the question, Miss Weyand.

By Miss Weyand:

Q. Wasn't the idea you expressed, that you understood from these articles that the International Ladies' Garment Workers' Union was trying to organize the Donnelly Garment Company to get even with Mr. Reed, a matter that had to do with your garment company?

A. Now, a matter of what to do with the garment company—

Trial Examiner Batten: I think you had better break [fol. 5519] your question up into two or three questions, Miss Weyand.

Miss Weyand: She expressed before that she thought violence—

Trial Examiner Batten: I realize that, but I don't believe the witness can follow a question of that kind and answer it for you. That is the reason why I think you should break the question up.

Miss Weyand: All right.

By Miss Weyand:

Q. You stated, did you not, that these articles about Mr. Reed's speeches led you to believe that the International Ladies' Garment Workers' Union was trying to organize your company to get even with Mr. Reed? Is that correct?

A. I did think on that point, all right. I wondered if that was why, because it did mention in the paper about him getting at Mr. Reed through the factory, or something like that.

Q. You got the idea from the paper that the union was trying to organize to get even with Mr. Reed; is that correct?

A. That's the way I took that particular piece in the writing in the paper.

Q. And that made you mad?

A. Yes, to think that he wanted to take his spite out on us to get at Mr. Reed.

Mr. Reed: I didn't hear the answer.

[fol. 5520] Trial Examiner Batten: Will you read it, please?

(Thereupon the last answer was read by the reporter, as follows:

"Yes, to think that he wanted to take his spite out on us to get at Mr. Reed.")

By Miss Weyand:

Q. You said the articles about the strikes and violence influenced you because that had something to do with the garment company you worked at; is that correct?

A. That is right.

Q. Didn't you think the statement that the International Ladies' Garment Workers' Union was trying to organize your company to get even with Mr. Reed also had something to do with the garment company you were working at?

Mr. Reed: I object to that as incompetent and immaterial and a mere attempt at argument and not proper cross-examination.

Trial Examiner Batten: Objection overruled.

Will you read the question to the witness?

(Thereupon the last question was read by the reporter.)

Mr. Reed. Now,—

Trial Examiner Batten: I have overruled your objection. Do you have another one, Senator?

Mr. Reed: All right.

Trial Examiner Batten: Do you understand the question, Mrs. Phillips?

{fol. 5521} The Witness: Yes, I understand the question. I was just trying to figure out how to answer it.

A. I thought if the I. L. G. W. U. wanted to organize us, why didn't they come at us the other way, instead of going through our factory to get at Mr. Reed; why didn't they have a different way of getting us?

{fol. 5522} Q. I believe you stated there were some meetings at which you did wear your uniform, is that correct?

A. Yes, there were some.

Q. Do you remember what meetings those were?

A. No, I don't remember just what meetings they were.

Q. Was that in the spring of 1937?

A. If I remember right, it was.

Q. Do you remember any meeting in which there were no chairs?

A. No, I don't remember that.

Q. Did you attend meetings of the Donnelly Garment Workers' Union quite regularly?

A. Well, no, I didn't.

Q. When was the next meeting after April 27 that you recall attending?

A. Well, I don't remember; it was during the summer.

Trial Examiner Batten: With five children you had other things to do, didn't you?

A. I sure did.

By Miss Weyand:

Q. Do you have any way of recalling what time of day the April 27 meeting was held?

A. Well, it was around five o'clock, five or 5:10, I forget.

Q. Do you know how you remember that?

A. Well, I remember that because I remember either the girl next to me speaking about it or me talking to her, saying, "Are you going to dress before we go or wait un- [fol. 5523] til after the meeting," and we both made up our minds we would go, so we went so we could get a seat, or get up in front, I don't remember just which it was.

By Mr. Langsdale:

Q. Mrs. Phillips, will you name all of those whom, in March and April 1937, you considered representatives of the management?

A. Well, I'll name as many as I can recall at that time; it would be Mr. Baty and Ella Mae Hyde, and Mrs. Reeves — I am not sure about Mrs. Reeves, but I think —

[fol. 5524] Q. (Interrupting) You aren't sure about what?

A. Mrs. Reeves. There is Mrs. Reed —

Q. (Interrupting) You mean you aren't sure Mrs. Reeves represented the management?

A. I think she did.

Q. Go ahead.

A. And — let's see. I said Mr. Baty and Ella Mae Hyde, didn't I?

Q. Yes.

A. Mr. Green—well, I don't remember. There are others, but I don't remember, because those ones were the—

Q. (Interrupting) Were there any others that you knew or ever came in contact with that you considered representing the management?

A. Mr. Baty.

Q. Mr. who?

A. Mr. Baty.

Q. Well, you have mentioned Mr. Baty already.

A. No, you say were there any more?

Q. Yes, that you knew or came in contact with.

A. No, as far as I can recollect now, there weren't; I can't remember.

Q. So, when you answered questions by Mr. Ingraham and Mr. Lane to the effect that no one representing the management had done or said anything, you had in mind [fol. 5525] these people whom you have named, is that correct?

A. That is correct; but I said there could have been others.

Q. But do you know of any others?

A. I can't recall of any.

Q. Well, you didn't have any others in mind when you answered the questions of Mr. Ingraham and Mr. Lane, about representatives of the management, did you?

A. Well, when he spoke those names, I remembered them being there, and remembered them being the representatives of the factory, but now I can't remember only just those.

Q. Well, let's see, then; you understood Mr. Ingraham, when he named those whom he did name. Was there anyone else in March and April whom you considered representatives of the management?

A. I don't remember any others.

Q. At the meeting of March 18, when there was an address by Mrs. Reed, was there a letter read?

A. I don't remember of any letter being read.

Q. Did you hear any letter read?

A. I don't remember it.

Q. Did Mrs. Reed request that someone read a letter that had been sent to the Donnelly Garment Company by the International Ladies' Garment Workers' Union?

A. I don't remember that.

Q. Now, let me understand you. You don't remember, [fol. 5526] or you say that no such letter was read?

A. As far as I know there was no such letter read, but I just don't remember whether it was or not, because I don't remember anything like that.

Q. Will you examine this signature, and tell the Examiner whether or not that is your signature?

A. No, that is not my signature.

Q. Is there another Lydia Phillips there except you?

A. Not that I know of.

Q. And you say that is not your signature?

A. Well, if I had signed anything like that I ought to remember it.

Q. I am not asking you whether you ever signed anything or not. I am asking you if that is your signature.

A. It don't look like it.

Q. You say it is not?

A. Well, if I ever signed it, I don't remember signing it.

Trial Examiner Batten: Well, look at your signature: Can you tell whether you wrote it or not?

Mr. Langsdale: I am not asking her to read what is up there, I am asking her if that is her signature.

Trial Examiner Batten: Well, the question is, is that your signature?

A. I don't believe it is.

Mr. Langsdale: Will you hand me the other signature [fol. 5527] of the—

Mr. Reed: (Interrupting) Now, I submit that a witness who is asked whether they attached their name to a document, or not, is entitled to see the document for the purpose of helping them to identify their signature. I have signed my name so many different times, and so many different ways, because I can't write very well, that frequently I can't tell by looking at the signature alone whether it was mine or somebody had imitated it; and I submit, as a matter

of fairness the witness should now be allowed to see the documents which are handed to her.

Trial Examiner Batten: Well, I don't think so, for the purpose of identifying a signature, Senator, at least preliminary.

By Mr. Langsdale:

Q. You identified this signature on the petition that you signed on March 2, 1937, as yours, did you not?

A. Yes, I did.

Q. Now, look at this signature, and see then if that helps you identify this signature that I am now showing you as yours.

A. Well, that don't—I wouldn't say whether I signed that or not, whether that was my signature or not, because I—it don't look like it.

Q. You say it is not?

A. I won't say it is not, but I don't know, but it don't look like it. I could tell if I could read what I signed.

[fol. 5528] Q. You mean that you can't identify your signature without seeing what your signature is appended to?

A. Oh, I can sometimes, but that don't look like my signature.

Q. You said that you didn't want to join the I. L. G. W. U. because the minimum that they had announced was less than the minimum you were already getting. What minimum had the I. L. G. W. U. announced for the Donnelly Garment Company?

A. Well, I read in one piece where they said that \$13.00 was the minimum.

Q. Where did you read that?

Mr. Reed: In what company? Now, the sentence was confusing. Let's have the preceding question read.

Trial Examiner Batten: Will you read the question and the answer?

(Thereupon the preceding question was read by the reporter as follows:

“Q. You said that you didn't want to join the I. L. G. W. U. because the minimum that they had announced was less than the minimum you were already getting. What

minimum had the I. L. G. W. U. announced for the Donnelly Garment Company?

"A. Well, I read in one piece where they said that \$13.00 was the minimum.")

Mr. Reed: Nobody claims they announced the minimum for the Donnelly Garment Company.

[fol. 5529] Trial Examiner Batten: The question was, what minimum had been announced for the Donnelly Garment Company.

Mr. Langsdale: By the I. L. G. W. U.

Mr. Reed: But he implies by that statement that this minimum was less than the Donnelly Garment Company was getting, and he adds this to it; and I object to it as a double barreled question.

Trial Examiner Batten: The question is, what minimum was announced for the Donnelly Garment Company by the I. L. G. W. U.

Mr. Reed: That assumes—

Trial Examiner Batten: (Interrupting) It doesn't assume anything. My question is pure and simple.

Mr. Reed: That question assumes one had been announced, and there is no evidence one had been announced for the Donnelly Garment Company, and I object to it.

Mr. Langsdale: I understood this witness to say she didn't want to join the I. L. G. W. U. because the minimum which the I. L. G. W. U. had announced for the Donnelly Garment Company in its campaign was less than what they already were getting.

Mr. Langsdale: Did you say that or not?

A. That was one of the things.

Mr. Reed: I object to that because the witness didn't say—

[fol. 5530] Trial Examiner Batten: (Interrupting) The witness just said that was one of the things.

Mr. Langsdale: She said it again.

By Mr. Langsdale:

Q. Now, when did you understand the I. L. G. W. U. had announced any minimum for the Donnelly Garment Company?

A. I didn't mean it, that the \$13 was announced for the Donnelly Garment Company; I read that in the paper where it was the minimum. I understood what the I. L. G. W. U. would pay as a minimum to organize those three plants down there; now, that is the way I remember reading it.

Q. Where did you read that?

A. Well, if I remember right, it was in the Kansas City Star, or some piece in the paper.

Q. Did you read it in any of those articles that have been shown you by Mr. Ingraham and Mr. Lane?

A. I read something at that time, and I don't know whether—but I remember that, that was in my mind thoroughly at that time, that that was one of the things, why I didn't want the I. L. G. W. U. in there as a whole.

Q. Then, you didn't mean to say that you had understood that the I. L. G. W. U. had announced a minimum for the Donnelly Garment Company?

Mr. Reed: I submit the witness has explained that and fully answered it.

[fol. 5531] Trial Examiner Batten: Please read the question.

(Thereupon the last question was read by the reporter, as follows:

"Q. Then you didn't mean to say that you had understood that the I. L. G. W. U. had announced a minimum for the Donnelly Garment Company?"

Trial Examiner Batten: You may answer.

A. I didn't read it in that way, but I figured if they organized us that that is all the minimum we would get if that is all the minimum they were going to give in the other factories.

By Mr. Lingsdale:

Q. Now, this article on February 26, did you read there what the I. L. G. W. U. announced as the minimum for workers in silk dresses?

A. I don't remember reading that—I read that in one of those other articles, but I didn't read that then, I don't remember reading it then.

Q. Did they make any silk dresses down at the Donnelly Garment Company during that period?

A. I don't remember whether I did or not, at that period.

Q. Well, did anybody, to your knowledge?

A. I don't know whether you call it silks or not, but I guess you would.

Q. Speak a little louder; will you read her answer?

A. I don't know whether you call them silks or not, [fol. 5532] but I guess you would.

Q. Well, did you read in that article that the I. L. G. W. U. had announced that the minimum was \$22.50 a week for silk dresses? A. I didn't read that then.

Q. What did you say?

A. I didn't read that at that time.

Q. Well, have you read it since? A. I read it since.

Q. Didn't you tell Mr. Ingraham you had read this article when it came out? A. I don't believe I did.

Q. Now, do you know what article you are referring to, when you say that the minimum was less than the Donnelly Garment Company was getting?

A. I didn't read any place where they said it was less, but in the writing it didn't say less than the Donnelly Garment Company, but I knew it was less.

Q. Do you know who called a meeting on March 18?

A. No, I don't.

Q. Don't you know that it was Rose Todd and Hobart Atherton?

A. I knew it was Rose Todd that was the leader of that meeting.

Q. Let me show you this document which precedes the [fol. 5533] signature that I showed you of Lydia Phillips which appears in intervener's offer of proof, and is designated as 1-quadruple R, and ask you to read it and see if you remember signing it.

Mr. Reed: Is that the same paper shown the witness before?

Mr. Langsdale: Yes.

Mr. Reed: You didn't show it to the witness before?

Mr. Langsdale: I showed her her signature.

Mr. Reed: Yes.

By Mr. Langsdale:

Q. Do you now remember that you did sign that document?

A. Well, I remember something of this sort, but I still can't remember just exactly when the time was, but it could have been, because something like that I could have signed.

Q. Well, what do you now say about—just a moment. Let me state—

Mr. Reed (Interrupting) The witness started to say something.

Trial Examiner Batten: Had you finished, Mrs. Phillips?

Mr. Langsdale: I want to identify these documents as accurately as I can, and then she can say whatever she wants to.

Mr. Reed: She was trying to answer the question.

Trial Examiner Batten: Just a moment, and we will have the answer thus far read, and we will see whether [fol. 5534] she finished it or not.

Will you read the answer?

(Thereupon the last answer was read by the reporter, as follows:

"A. Well, I remember something of this sort, but I still can't remember just exactly when the time was, but it could have been because something like that I could have signed.")

Mr. Langsdale: Now, let me state for the purpose of the record—

Trial Examiner Batten: (Interrupting) Well, had you finished?

A. Oh, what I started to say didn't amount to anything.

Trial Examiner Batten: Well; it ends there, "I could have signed." Had you finished your answer?

A. Yes. I could have signed it; I finished it.

Mr. Langsdale: The document which I have just shown the witness is one of the offers of proof of the intervenor and appears at pages 3484, 3485 and 3486 of the Court of Appeals record in this case.

By Mr. Langsdale:

Q. Now, does reading this document refresh your memory as to some of the things that happened at that March 18 meeting? Let me ask you, you stated in answer to Mr. Ingraham's question that you didn't know why Mrs. Reed happened to come to the meeting. In this document, which has what purports to be your signature on it: [fol. 5535] "Mrs. Nell Donnelly Reed, came after the meeting had been in progress for some time, as hereinafter stated." Do you remember that?

A. Yes, I remember that.

Q. Now, do you now remember that the meeting had been called by Rose Todd, Hobart Atherton and some others? A. I remember Rose Todd being there.

Q. And Hobart Atherton?

A. I can't remember Hobart Atherton.

Q. Well, you say you didn't read this, or know it, when you signed this document?

A. If I signed it, I read it, because I never sign anything unless I read it.

Q. Well, it does say that Rose Todd and Hobart Atherton and some others called a meeting, doesn't it?

A. It says that in there.

Q. And then as to whether you knew why Mrs. Reed came to the meeting, let's see if this refreshes your memory: "Two or three employees, at the suggestion of the chairman, left the room to go after Mrs. Reed, and in a little while, Mrs. Reed came into the meeting." Is that true?

A. Well, I can't remember who went after her.

Q. Well, you do remember that someone went after her? A. I remember she was there.

Q. Do you remember that someone went after her?
[fol. 5536] A. I don't remember that.

Q. Well, do you remember signing this statement that someone went after her?

A. I can't remember that far back. If I signed that, I don't remember when it was passed around or where or how.

Q. Do you know where you signed it or at whose request? A. No, I don't.

Q. Did you ever go to the offices of a Mr. Tyler and Mr. Lane, and sign any documents?

A. I don't remember.

Mr. Langsdale: Now, if the Examiner please, when I started to inquire the other day with respect to one of the offers of proof, as to when and where it was signed, and so forth, I was cut off because Your Honor said that that, in your opinion, was not material.

Mr. Langsdale: I am not offering it as to materiality, but simply to try to refresh this witness's memory.

Trial Examiner Batten: Well, I assume that the present examination is merely a matter of identification of the signature, as I understand it.

By Mr. Langsdale:

Q. Let's see if this is your memory about a letter having been read at the meeting.

Mr. Ingraham: I want to call attention in the record it is now 5:07.

Mr. Langsdale: Let me ask this one question, and I [fol. 5537] think I am through.

Mr. Ingraham: Go ahead, if you will finish with the witness.

Mr. Langsdale: I want to ask one more question, and then I am perfectly willing to quit.

Trial Examiner Batten: I realize it is after 5, but my only purpose was if you can dispose of this lady, who has five children, and also works—

Mr. Langsdale: (Interrupting) I think after this question I will be through. I had some more questions, but—

Trial Examiner Batten: (Interrupting) I prefer she don't have to come back here in the morning.

By Mr. Langsdale:

Q. Well, you are working at the plant, aren't you?

A. Yes.

Q. And you are either going to the plant or coming back here in the morning.

Trial Examiner Batten: It doesn't make any difference whether she comes here or goes to the plant. The important thing is to go to the plant. Respondent has made a showing heretofore that they are doing defense work, and if they are doing defense work, and if we can dispose of this lady tonight, there is just no reason for her to come back here in the morning, Mr. Langsdale.

Mr. Langsdale: It is all right with me to stay here [fol. 5538] until we dispose of her. I want to look at my notes, but I think this is the last question.

Trial Examiner Batten: If it is a matter of a question or two, we will continue with the witness.

By Mr. Langsdale:

Q. Let's see; to refresh your recollection, "Two or three employees, at the suggestion of the chairman, left the room to go after Mrs. Reed, and in a little while Mrs. Reed came into the meeting. She had someone to read to the meeting a letter that had been received from Meyer Perlstein of the International Ladies' Garment Workers' Union." Does that refresh your memory on that point?

A. I don't remember that; I don't remember that letter being read.

Q. And you don't remember Mrs. Reed having someone read it? A. No, I don't remember that.

[fol. 5545] LOUISE GARRETT, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination.

By Mr. Ingraham:

Q. Will you please state your name?

A. Louise Garrett.

Q. Where do you live, Mrs. Garrett?

A. 4421 Woodland.

Q. Are you employed? A. Yes.

Q. Where? A. Donnelly Garment Company.

Q. How long have you been employed at the Donnelly Garment Company? A. Since April, 1936.

Q. In what capacity are you employed?

A. As an operator.

Q. Do you do any particular kind of sewing?

A. Pockets is what I usually do.—

Q. Are they made on a special machine?

A. No, a single needle.

By Mr. Ingraham:

Q. Were you employed at the company in the spring [fol. 5546] of 1937? A. I was:

Q. Do you recall strikes at the Gernes, Gordon, and Missouri plants, during the spring of that year?

A. Yes.

Q. Did you read in the paper about the strikes?

A. Yes.

Q. I will hand you respondent's exhibit 16, which is the front page of the Kansas City Times for March 18, 1937, and it contains pictures at the foot of the page; and I will ask you if you recall seeing those pictures there in the paper? A. Yes, I remember them.

Q. I will hand you respondent's exhibits 18 through 38, and ask you if you will look at those exhibits, and state whether or not you recall reading the articles that refer to the strikes.

A. I remember reading No. 18; I do remember reading No. 19; I remember reading No. 20; also 21; I read 22; I read 23; I remember 24; I remember 25; I remember 26; I remember 27; I remember 28; I remember 29; I remember 30; I don't remember reading 31; 32, I remember; and I remember 33; and I remember 34; and I remember 35; I remember 36, and I remember 37; I remember reading 38.

[fol. 5547] By Mr. Ingraham:

Q. State what effect, if any, the reading of the articles that referred to violence at the Gernes, Gordon, and Missouri plants had upon you.

A. It made me very nervous and uneasy, I was afraid to go to and from work, really.

Q. Did you personally see any violence at the Missouri, Gernes and Gordon plants? A. No, I didn't.

Q. Were these articles generally discussed by the employees of the Donnelly plant? A. Yes.

Q. What effect, if any, so far as you could observe, did those articles have on other employees at the Donnelly plant?

A. As far as I could see, everyone resented it, and felt about the same way I did, afraid and uneasy.

Q. Did you hear that threats were made to use the same sort of violence against the Donnelly employees?

A. I heard that.

Q. Are you a member of the Donnelly Garment Workers' Union? A. Yes, I am.

Q. Were you one of the employees that joined the union when it was formed? A. Yes.

Q. Do you recall about when it was that the Donnelly [fol. 5548] Garment Workers' Union was formed?

A. Well, it was about the same time the strike was going on over there, in April, I believe.

Q. Do you recall if it was about April 27?

A. I think so.

Q. Do you recall where the meeting was held at which the Donnelly Garment Workers' Union was formed, what part of the building? A. On the second floor.

Q. Do you recall what time of day that meeting was held?

A. I don't remember exactly what time, but it was after I finished my work, but I don't remember exactly what time the meeting was held—that we started the meeting, rather.

Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Miss Spilsbury, Mr. Keyes, Mrs. Keyes, Mr. Bachofer or Ella Mae Hyde discuss the holding of this meeting with you?

A. They didn't.

Q. Did the instructor in the section in which you worked discuss the holding of the meeting with you?

A. No, she didn't.

Q. Did the thread girl discuss the holding of the meeting with you? A. No.

Q. Did anyone that you thought represented the management discuss the holding of this meeting with you?

[fol. 5549] A. No, they didn't.

Q. Did you believe that Rose Todd had authority to speak for the management with reference to labor matters?

A. I didn't believe that, no.

Q. Did you consider Rose Todd a boss? A. No.

Q. Did you consider instructors bosses?

A. No, I didn't.

Q. Did you consider thread girls as bosses? A. No.

Q. Did any of the people that I have named suggest or request that you attend that meeting?

A. No, they didn't.

Q. Did any of the people that I have named suggest or request that you vote in favor of forming the Donnelly Garment Workers' Union?

A. No, they didn't.

Q. Did you vote in favor of the forming of the Donnelly Garment Workers' Union? A. Yes, I did.

Q. Why did you vote in favor of forming the Donnelly Garment Workers' Union?

A. Because I thought it was better for us, the employees, and because I felt safer if we had a union of our own.

Q. I believe you stated that you read respondent's exhibit 35, which was an article in the Journal-Post with the heading, "Donnelly Worker will be sent to Union Convention." A. Yes, I read that.

By Mr. Ingraham:

Q. Did that influence you in any way in voting in favor of forming the Donnelly Garment Workers' Union?

A. Well, it made me sure that I wanted to, more than before.

Q. State whether or not you wanted Sylvia Hull or the International Ladies' Garment Workers' Union to represent you. A. No, I didn't.

Q. State whether or not you considered this meeting where the Donnelly Garment Workers' Union was formed a Loyalty League meeting.

A. No, I thought it had nothing to do with the Loyalty League.

Q. Did anybody tell you that that was a Loyalty League meeting? A. No.

Q. Do you recall whether or not Rose Todd presided at the meeting? A. Where our union was formed?

Q. Yes. A. Yes, she did.

Q. Did the fact that Rose Todd presided at the meeting [fol 5551] or took any part in the meeting lead you to believe that it was a Loyalty League meeting? A. No.

Q. Did you see Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Mr. Keyes, Mrs. Keyes, Mr. Bachofer or Ella Mae Hyde at that meeting? A. No, I didn't.

* * * * *

By Mr. Ingraham:

Q. Did you see Miss Spilsbury at the meeting.

A. No.

Q. Did you see anybody at that meeting that you thought represented the management? A. No, I didn't.

Q. Did you consider instructors or thread girls supervisors or bosses? A. No, I didn't.

Q. Was there any pressure or coercion of any kind brought to bear by anybody on you to force you to join the Donnelly Garment Workers' Union?

A. No, I did it because I wanted to.

Q. Did you do it of your own free will?

A. Yes, I did.

[fol. 5552] Q. I believe you stated that you recall seeing the pictures that are in the Kansas City Times March 18, 1937, which is respondent's exhibit 16.

A. Yes, I remembered them.

Q. I believe you stated that you read the article that appeared in the Kansas City Star of March 17, which is respondent's exhibit 27; the article is entitled: "Sitters Block a Door."

A. Yes, I read that.

Q. Now, do you recall on or about that time, March 17 or 18, whether or not the employees held a meeting?

A. Yes; I couldn't say it was just at that time, I don't remember the dates, but it was around that time that that was happening.

Q. And the strikes had started at these other plants?

A. Yes.

Q. Do you recall why the employees held the meeting?

A. Well, we felt that we wanted to do something, and we didn't know exactly what we wanted to do, and we had a meeting to—different people expressed their feelings about it; I don't remember exactly what was said, or anything like that, but that was the reason.

Q. Will you state whether or not there was a discussion of the violence at these other strikes?

A. That was the main discussion at that meeting.

[fol. 5553] Q. Was anything said about the employees taking action to protect themselves?

A. We wanted to, but we didn't know exactly how to go about it, but we talked about it.

Q. Now, do you recall where that meeting was held?

A. On the second floor.

Q. Do you recall the time of day?

A. No, not exactly. It was after I finished work, and I was working then—I got off at 4:30, and it was after I finished work, but I went down before I dressed.

Q. In any event, it was after you had finished your work for the day?

A. After I had finished my work for the day, yes.

Trial Examiner Batten: You mean, then, you went down in your uniform?

A. I went down in my uniform so I could get a better seat. Some of the girls were getting off earlier than I was at that time.

By Mr. Ingraham:

Q. Did Mrs. Reed, Mr. Baty, Mr. Green, Mrs. Reeves, Miss Spilsbury, Mr. Bachofer, Mr. or Mrs. Keyes, or Ella Mae Hyde discuss with you the holding of that meeting?

A. No.

Q. Did your instructor discuss the holding of that meet-
[fol. 5554] ing with you? A. No, she didn't.

Q. Did the thread girl discuss the holding of the meet-
ing with you? A. No.

Q. Do you recall how you happened to go to the meet-
ing?

A. I don't remember. I don't remember who told me
there was a meeting or how I happened to go, but, how-
ever, I knew that there was a meeting.

Q. Do you recall whether or not Mrs. Reed was called
down to that meeting?

A. That is the first meeting that we had while this vio-
lence was going on?

Q. Yes.

A. Yes, someone went after Mrs. Reed; I don't know
who it was.

Q. Do you recall Mrs. Reed making a talk?

A. Yes, she did.

Q. Did Mrs. Reed state that the plant would be closed
if it was unionized?

A. I'm sure she didn't say that.

Q. Did Mrs. Reed state that she would not let Dubin-
sky tell her how to run her business?

A. I don't remember her saying that.

Q. Do you recall anything that Mrs. Reed said with ref-
erence to the rights employees had to join or not join a
[fol. 5555] labor organization?

A. She said something like that, about we had a right
to do as we pleased, but I don't remember the words
that she said.

By Mr. Ingraham:

Q. I will hand your respondent's exhibit 12, and ask
you if you will read that exhibit.

A. I remember her speech that she made that day.

By Mr. Ingraham:

Q. Do you recall Mrs. Reed stating, "If you want to
belong, that is your own business and it is up to you to
decide."

A. I remember her saying that.

Q. Do you recall her saying: "I will say that neither Dubinsky nor any other buttinsky is going to intimidate me or the company into forcing you to join the International against your will."

A. I remember that.

Q. Do you recall Mrs. Reed stating: "We are trying to make arrangements with the street car company for its buses to go to certain points and to pick you people up and [fol. 5556] bring you to the plant. We will let you know about this as soon as arrangements can be made."

Mr. Langsdale: Just a minute; before she answers I wish to object to this method of examination, showing the witness the purported transcript of what Mrs. Reed said, and having her read it over, and then taking the purported transcript back to his own chair and asking her if the things she just read in that transcript were true and were said. It is leading and suggestive, and an improper method of examination of his own witness.

Trial Examiner Batten: Do you recall the question, Mrs. Garrett?

Mr. Ingraham: Will you read the question?

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Q. Do you recall Mrs. Reed stating: "We are trying to make arrangements with the street car company for its buses to go to certain points and to pick you people up and bring you to the plant. We will let you know about this as soon as arrangements can be made.")

A. Yes, I remember that.

By Mr. Ingraham:

Q. Now, is this exhibit, respondent's exhibit 12, a correct transcript of what Mrs. Reed said, so far as you can remember?

[fol. 5557] A. As far as I can remember, yes.

By Mr. Ingraham:

Q. Did Mrs. Reed read any letter at that meeting?

A. I don't recall it.

Q. I will hand you respondent's exhibit 41 and ask you if you recall this circular being distributed by the International Ladies' Garment Workers' Union girls in front of the plant? Will you please read it?

A. I remember reading something to this effect, I don't know just whether it was handed to me outside of the plant or some girl gave it to me the next day, or just how, but I read something like that.

[fol. 5558] Q. That was in the form of a circular like this?

A. I am sure that it was.

Q. Did you always take the circulars that the International girls handed out?

A. I always have when they handed me one as I went out.

Q. Do you recall whether anybody read this circular at this meeting on March 18?

A. No, I never heard anyone read it.

Q. Did you hear any letter read?

A. No.

Q. Did the employees take any kind of action at that meeting of March 18, with respect to getting protection or doing anything about protecting themselves?

A. Well, it seems to me we appointed a committee or something, to—it was discussed at the meeting, I don't just exactly remember what we did do.

[fol. 5559] By Mr. Ingraham:

Q. Do you recall whether a committee was designated to obtain legal advice?

[fol. 5560] A. I can't say for sure, but it seems to me that there was; we had discussed it, I do know that.

By Mr. Ingraham:

Q. Mrs. Garrett, was there any meeting held between this meeting of March 18 and the meeting of April 27 at which the Donnelly Garment Workers' Union was formed?

A. Yes, there was.

Q. Do you remember about when that meeting was held?

A. Oh, I think it was along about the first of March, or something like that.

Q. Do you mean the first of April?

[fol. 5561] A. The first of April, I mean the last of March or the first of April.

Q. Did Mrs. Reed, Mr. Baty, Mr. Green, Miss Spilsbury, Mr. and Mrs. Keyes, Mr. Bachofer, or Ella Mae Hyde discuss the holding of that meeting with you?

A. No, they didn't.

Q. Did any instructor or thread girl discuss the holding of that meeting with you?

A. No.

Q. Did any of these people I have just named suggest, or request that you attend the meeting?

A. No.

Q. Did you go to that meeting of your own free will?

A. Yes, I did.

Q. Do you recall where the meeting was held?

A. On the second floor.

Q. And do you recall what time of day?

A. Well, it was after my working hours, and after the first meeting I always dressed before I went down, so I was in my street clothes at that meeting.

Q. Now, do you recall what was done at that meeting?

A. Well, we discussed money for a retaining fee for an attorney, and decided how much each would give.

Q. Do you recall how much it was decided each would give?

A. 50¢ each.

[fol. 5562] Q. Did you give 50¢ at that meeting?

A. Not that night.

Q. When did you give your 50¢?

A. The next day.

Q. Did you consider this meeting a Loyalty League meeting?

A. No, it was not.

Q. Did anybody discuss with you the fact that this was a Loyalty League meeting?

A. No, I never heard that.

Q. Did you make your contribution of 50¢ to the Loyalty League?

A. No, I gave it to some girl in the section, I have forgotten who she was now.

Q. Well, did you intend that the 50¢ be used for any Loyalty League purpose?

A. No, I didn't.

Q. Did any of the people I have named request you to make a contribution of 50¢?

A. No, they didn't.

Q. Did you do that of your own free will?

A. Yes, I did.

Q. Did you feel that you would be penalized by the company if you did not attend that meeting?

A. Well, I didn't stop to think about being penalized by the company, I thought it was for my own benefit to [fol. 5563] attend it, so I attended it.

Q. Did you feel that you would be penalized by the company if you did not give the 50¢?

A. No.

Q. Have you felt that if you did not attend any meeting that you have testified about, that you would be penalized by the company?

A. No, I didn't.

Q. You attended the meeting of your own free will?

A. Always.

Q. Are you a member of the Loyalty League?

A. Yes.

Q. Do you recall when you joined the Loyalty League?

A. Shortly after I went to work there.

Q. Did you feel that you would be penalized by the company if you did not join the Loyalty League?

A. No, I didn't.

Q. Did you join the Loyalty League of your own free will?

A. Yes.

Q. Do you recall whether or not you paid any dues in the Loyalty League?

A. I never did.

Q. Did you authorize the Loyalty League to represent you in any labor matters?

A. No.

[fol. 5564] Q. Did you ever hear of the Loyalty League dealing with the company in regard to terms and conditions of labor?

A. I never did.

Q. Did you ever understand that the Loyalty League sponsored the Donnelly Garment Workers' Union?

A. No.

[fol. 5565] Q. Do you recall any meeting of the Loyalty League that immediately preceded or immediately followed a meeting of the Donnelly Garment Workers' Union?

A. No.

Q. Do you recall at any Donnelly Garment Workers' meeting discussing raising money for the Loyalty League?

A. No.

Q. Do you recall of any business of the Loyalty League ever being discussed at a Donnelly Garment Workers' meeting?

A. No.

Q. Did the fact that Rose Todd was president of the Loyalty League at the time that the Donnelly Garment Workers' Union was formed lead you to believe that the Loyalty League was promoting the Donnelly Garment Workers' Union?

A. No, it didn't.

Q. What activities did the Loyalty League engage in?

A. Well, social affairs, and things like that, as far as I know. That's all I ever knew of them doing.

Q. What do you mean by "social affairs"?

A. Such as picnics, dances, carnivals, and things like that.

Q. Was any pressure or coercion brought to bear on you by the Loyalty League or anyone representing it to cause you to join the Donnelly Garment Workers' Union?

A. No.

[fol. 5566] Q. Was any pressure of any kind ever brought to bear on you by the Loyalty League or anyone representing the Loyalty League to cause you not to join the I. L. G. W. U.?

A. No.

Q. I will hand you respondent's exhibit No. 6 and ask you to read this exhibit, which is an article that appeared in the Kansas City Times of February 26, 1937.

Q. Do you recall reading that article?

A. I remember reading it.

Q. Do you recall any part of the article that stated, "The union claims only 25 members among the Donnelly workers but officials said hundreds of others are related to union members. 'Within a year we will have it completely organized,' Perlstein said. 'As soon as we have enough members, we will call a strike.'"

A. I remember reading that.

Q. What did you think about that statement with reference to calling a strike?

A. Well, I didn't like the idea of the strike and I didn't think we would ever strike.

Q. Did you want to strike?

A. I wouldn't, no.

Q. Did you want the International to call a strike?

[fol. 5567] A. No, I didn't.

Q. Why didn't you?

A. Well, just because there was always violence at all of these strikes, and I didn't care for that, and then, I didn't—I was afraid, in other words, that if they came and called a strike we would have the same violence they had had at other places.

Q. (Reading) "He also stated, 'This will be in addition to carrying our side to the consumers.'"

Did you want that done?

A. No.

Q. What did you think he meant by that threat?

A. Well, I didn't know exactly.

Q. State whether or not you thought that Mr. Perlstein meant to cause the Donnelly products to be boycotted when he stated, "Part of the union's campaign against the Donnelly Garment Workers' Union will be to send six women to cities and towns where its garments are sold".

A. What did I think of that?

Q. Did you consider that was a boycott, the threat of a boycott?

A. That's what I would call it.

By Trial Examiner Batten;

Q. What is a boycott?

A. Well, it's where you go and tell someone else that you don't like what someone else is doing, I think, and ask [fol. 5568] them not to patronize them.

By Mr. Ingraham:

Q. Was that article generally discussed by the employees of the Donnelly plant?

A. Yes, it was.

Q. What effect, if any, did that article have on other employees, so far as you observed?

A. Well, they felt the same way I did about it, as far as I could observe. They didn't like it any better than I did.

Q. Do you recall a petition being circulated among the Donnelly employees a few days after that article appeared in the paper?

A. I don't remember right now.

Q. I will hand you L. A. G. W. U.'s exhibit No. 10 and ask you if you recall signing a petition that had the same language at the top of the page that appears on this exhibit, which appears in the Circuit Court of Appeals record at 5961.

A. Yes, I signed that.

Q. Do you recall whether or not you signed that on or about March 2, 1937?

A. It was before Mrs. Reed spoke to us that day.

Q. Do you recall whether it was on or about March 2?

A. Sometime along there.

Q. Who presented you with the petition?

A. There were two girls; one of them handed it to me. I [fol. 5569] don't know their last names. I know they were Mary and Inez, but I don't know their last names.

Q. Where were you when the petition was presented to you?

A. I was working.

Q. Did the girls say anything to you?

A. They asked me to read it and asked me if I would like to sign it.

Q. Did you want to sign it?

A. Yes, I did.

Q. And did you sign it of your own free will?

A. Yes.

Q. Did Mrs. Reed, Mr. Baty, Mrs. Reeves, Mr. Green, Miss Spilsbury, Mr. or Mrs. Keyes, Mr. Bachofer, or Ella Mae Hyde request you to sign this petition?

A. No one did, except the two girls asked me if I would like to.

Q. Did you feel you would be penalized if you did not sign the petition?

A. No.

Q. Did the petition express your feelings?

A. It did.

Q. Did you want Mrs. Reed to know your feelings?

A. I wanted her to, yes.

Q. Did any instructor or thread girl discuss with you in any way this petition?

A. No.

[fol. 5570] Q. Did you believe that this petition was being circulated by the Loyalty League?

A. No, I didn't.

Q. Did you hear anybody say that the petition was circulated by the Loyalty League?

A. No, I didn't.

Q. Did you understand or gain the impression in any way that this petition was circulated by the company?

A. No.

Q. Going back to the meetings that you have testified about, did you feel that because instructors or thread girls attended any of those meetings, that that meant that the company was sponsoring the meetings?

A. No, I didn't feel that way at all.

Q. Did you feel that because instructors or thread girls joined the Donnelly Garment Workers' Union, that meant that the company was sponsoring the Donnelly Garment Workers' Union?

A. No, I didn't.

Q. Did the attendance or presence of instructors, or thread girls at the meeting of April 27, where the Donnelly Garment Workers' Union was formed, cause you to feel any compulsion to join the Donnelly Garment Workers' Union?

A. No.

Q. Did the article which is contained in exhibit No. 6 [fol. 5571] and purported to quote Mr. Perlstein—did that

article have anything to do with your desire to sign the petition of March 2 which I just showed you?

A. Well, it really made me want to.

Q. I will hand you respondent's exhibit No. 7, which is an article which appeared in the Kansas City Journal-Post of March 6, 1937, and appears on page 4865 of the Circuit Court record, and ask you to please read that exhibit.

By Mr. Ingraham:

Q. Do you recall ever reading that article?

A. Yes, I read it.

Q. Did the fact that Mr. Dubinsky said, "~~Mr.~~ Reed said many harsh things about me during the recent political campaign." cause you to be influenced in any way against the I. L. G. W. U.?

A. No. I thought that was purely a difference between the two men.

Q. Did you hear Mr. Reed make any political speeches in the 1936 campaign?

A. I heard some of them, yes.

Q. Did you ever hear him say anything about Mr. [fol. 5572] Dubinsky in any of those speeches?

A. I don't recall it.

By Mr. Ingraham:

Q. I will hand you Board's exhibit No. 27, which is an article that appeared in the Kansas City Times of May 11, 1937, and ask you if you will just glance at that and state whether or not you read that article.

[fol. 5573] A. I read this article.

By Mr. Ingraham:

Q. Did anything that Senator Reed said with reference to Mr. Dubinsky or the I. L. G. W. U. influence you in any way against the I. L. G. W. U.?

A. No, it didn't.

Q. I want to direct your attention to the article that appeared in the paper, stating "Donnelly worker will be sent to union convention." That is respondent's exhibit No. 35. It appeared in the Journal-Post of April 22, 1937. Did you work the day following the 22d?

A. Yes, I did.

Q. What floor did you work on?

A. Seven.

Q. Was there a general discussion of that article among the employees?

A. There was. Some girls brought the article in to work with them.

Q. Did you know Sylvia Hull?

A. No. I never saw Sylvia Hull.

Q. Did you know Fern Sigler?

A. No.

Q. Did you go up on the eighth floor that morning?

A. No, I didn't.

Q. Did you go down to the sixth floor?

A. No.

[fol. 5574] Q. You didn't see either of those girls?

A. No, I didn't.

Q. Have you continued to remain a member of the Donnelly Garment Workers' Union of your own free will? A. Yes, I have.

Cross-Examination.

By Mr. Lane:

Q. Mrs. Garrett, what section were you working in in March and April of 1937?

A. I don't know the number of the section, but it was on the seventh floor. I don't remember the number.

Q. Do you remember who your instructor was?

A. Grace Gnota.

Q. Was that a special section? A. No.

Q. What kind of work were you doing in that section at that time? A. Single-needle operations.

Q. Straight sewing? A. Yes.

Q. Do you remember approximately how long you worked in that section at that period?

A. How long I had worked?

[fol. 5575] Q. Yes.

A. At that time, I think about a year.

Q. Did you continue working in that section for some time after March and April, 1937?

A. About a year afterwards.

Q. Was Grace Gnotta your instructor during that whole two-year period? A. Yes, she was.

Q. Do you know who the thread girl was?

A. I had three different ones while I was in that section. Q. Who were they?

A. I don't remember their last names.

Q. Give me their first names.

A. Anna, Mary, and Edna.

Q. What did Grace Gnotta do as instructor of that section?

A. When we didn't understand how to make a certain garment, she showed us how to do it.

Q. Did she, so far as you know, ever hire anybody to work in that section, any operators? A. No.

Q. Did she ever fire any operators, so far as you know? A. No.

Q. Did you ever see her discipline any girls in that section? A. I can't say I ever did.

[fol. 5576] Q. Did you consider Grace Gnotta your boss or supervisor? A. No.

Q. What did these thread girls do?

A. Matched the thread with materials and gave us the right kind of thread.

Q. Did you consider any of those thread girls your boss or supervisor? A. No.

Q. Did you consider Grace Gnotta or any one of these thread girls was held out by the company as a representative of the management or spokesman for the management in connection with any labor matters?

A. No, I didn't consider them that at all.

Q. Did you know Rose Todd in March and April of 1937? A. I knew her by seeing her there.

Q. How long had you known her?

A. Since I had been working for the Donnelly Garment Company.

Q. And you started there in 1936, I believe? A. Yes.

Q. What had you observed Rose Todd doing?

A. Well, she would come into our section and get an old bundle that had been laid back for a long time and matched it up so that it could be completed.

Q. Was there anything else you saw her doing in your section?

[fol. 5577] A. Not in our section.

Q. Did you see her doing anything else at any other place in the plant?

A. No. I only saw her when she came into our section.

Q. Did Rose Todd ever say anything to you that indicated that she held herself out as being a supervisory employee or a superior employee? A. No, she didn't.

Q. Did anybody on the part of the management, or anybody else, ever say anything to you to indicate that Rose Todd was a supervisor? A. No.

Q. Did you know Hobart Atherton?

A. I knew him by seeing him around there.

Q. Did you know what his job was in March and April of 1937? A. No, I didn't.

Q. Was there anything he ever did to give you the impression that he was a supervisor of the company.

A. No.

Q. Did you know Sally Ormsby?

A. I knew her just by seeing her, at that time.

Q. Did you know what she did?

A. She was an operator.

Q. Do you know where she worked? A. No, I don't. [fol. 5578] Q. Did you know Ethel Riegel in March and April of 1937? A. Only by seeing her.

Q. Do you know what she did?

A. She was an operator.

Q. Did you know Arch Lile? A. No, I didn't.

Q. Did you know Lena Faulconer? A. No.

Q. Did you know Eva Liebermann? A. Yes.

Q. What did she do? A. She was an operator.

Q. Did you know Mrs. Riggs, on the ninth floor?

A. No, I didn't.

Q. Did you know Lyle Jeter? A. Yes.

Q. What did he do? A. A mechanic.

Q. Did you know Carl Crawford? A. Yes.

Q. What was his job?

A. In the cutting department.

Q. Did you know Cordelia Taylor? A. No. [fol. 5579] Q. Leona Moore? A. No.

Q. Did you know Ellen Nokes? A. No.

Q. Virginia White? A. No.

Q. Fred Brown? A. I knew him.

Q. Did you know what he did? A. No, I didn't.

Q. Did you know Mamie Riddle? A. I knew her.

- Q. What did she do? A. An operator.
 Q. Did you know Anna Richards? A. No.
 Q. Marjorie Green? A. I knew her, but not well.
 Q. Did you know where she worked?
 A. In the office, I'm pretty sure.
 Q. Did you know Jack McConaughy? A. Yes.
 Q. Where did he work? A. In the mechanics' cage.
 Q. Did you know Charlotte Casey? A. No.
 [fol. 5580] Q. Hazel Saucke? A. Yes.
 Q. What did she do? A. An operator.
 Q. Did you know Anna Reese? A. Yes.
 Q. What did she do? A. An operator.
 Q. Was there anybody whom I have named or anybody who participated in any way in the meeting of April 27, at which the Donnelly Garment Workers' Union was formed, that you consider to be a supervisory employee?

Mr. Langsdale: Just a moment.

Will you read that question, please?

(Thereupon the last question was read by the reporter.)

Mr. Langsdale: I object to the question for the reason that it assumes she knew everyone who was there and what they did and what their ability was. That is not based upon those she knew, but the question says, "Was there anybody there that in any way had any authority?"

Mr. Reed: Let's have the question read again, please.

Trial Examiner Batten: Read the question again.

[fol. 5581] Trial Examiner Batten: You may answer.
 A. There was not.

By Mr. Lane:

Q. Was there anybody who participated in that meeting that you considered to have a superior position over other employees?

Mr. Langsdale: Just a moment.

I object to the question for the reason that it is indefinite and uncertain as to what he means by "partici-

pated in that meeting." Does that mean, attended the meeting?

Mr. Lane: Either by speaking at the meeting or by attending the meeting.

Mr. Langsdale: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Mr. Langsdale: I object to the question for the same reason that I objected to the last question. It assumes this witness knew everybody who was there at that meeting and what their authority was.

Mr. Lane: Of course, the witness can only answer as to what her observation and knowledge was.

Mr. Langsdale: You didn't base it on her knowledge.

Mr. Lane: That was my question, whether there was [fol. 5582] anybody she considered that. She can answer what she considered—

Trial Examiner Batten: I presume a question of that type, if it is answered, it is on the basis of what the witness may know.

Mr. Lane: I am inquiring as to this witness' knowledge or information.

Trial Examiner Batten: Of course, on cross-examination you may determine what her knowledge is of it—how extensive it is.

Mr. Lane: Now, will you read the question, please, Miss Reporter?

(Thereupon the last question was reread by the reporter, as follows:

"Was there anybody who participated in that meeting that you considered to have a superior position over other employees?")

Trial Examiner Batten: You may answer.

A. Well, I wouldn't say that they were superior. They probably drew more money, some of them, but I wouldn't say they were superior.

By Mr. Lane:

Q. Well, there were many operators who got more money than other operators, weren't there? A. Yes.

Q. You didn't consider the operators who got more [fol. 5583] money as having a superior position, as far as the company was concerned, than the other operators who got less money? A. No.

Q. You voted at that meeting in favor of forming the Donnelly Garment Workers' Union? A. I did.

Q. Did you at the time you cast that vote think you were doing so of your own free will? A. I did.

Q. Was that your voluntary choice at that time?

A. Yes, it was.

Q. Did you believe when you cast that vote that you were in any way being dominated, influenced, or coerced by the company in coming to that decision? A. I did not.

Q. Was it your feeling that you were doing what you were doing because you, as an employee, wanted to do that thing? A. Yes.

[fol. 5584] By Mr. Lane:

Q. Can you state any instance or fact that you know of, anything said or done by any official of the company that led you to act one way or another at that meeting with regard to forming a union?

A. No.

Q. Had you, prior to that meeting of April 27th, given any thought, yourself, to the matter of forming an independent plant union?

A. Well, I had thought about it but I didn't know whether it was possible to be done or not.

Q. Had you discussed that with any other employees?

A. We had talked about it, several of us.

Q. Did you attend meetings of the Donnelly Garment Workers Union after its formation on April 27, 1937?

A. Did I attend meetings?

Q. Yes.

A. Yes.

Q. I will show you Board's exhibit 8-12 beginning at page 4406 of the Circuit Court of Appeals record and ask you to look briefly at the minutes of May the 11th, 1937, and state whether or not you attended that meeting?

By Mr. Lane:

Q. Did you attend that meeting?
[fol. 5585] A. I attended this meeting.

Mr. Reed: What is the date of that meeting?

Trial Examiner Batten: May 11th.

Mr. Lane: May 11th, 1937.

By Mr. Lane:

Q. I will ask you whether or not you would recall Rose Todd said substantially this at that meeting. "You realize now Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid. I expect a good many of you are wondering what he is going to charge. I talked to him in some detail and I am sure you will feel that he is quite right in the answer he gave me. He doesn't know what his answer will be because it depends on how much trouble we cause him and how much work he will have to do for us. The union does have to be self-supporting in every detail. Being a thoroughly reliable group of employees we can take care of our own financial obligations."

Mr. Langsdale: Just a minute before she answers that question. I object to this method of examination, counsel having shown the witness the minutes of May the 11th and having her read them over and then going back to the counsel table and reading over those minutes and asking the witness after he has shown her what was done, whether or not that thing happened; it certainly is leading and suggestive to the nth degree.

[fol. 5587] A. Yes, I remember her saying that.

By Mr. Lane:

Q. Did you personally believe that the Donnelly Garment Workers' Union should be self-supporting?

A. I certainly did.

Q. Was there, so far as you know, any financial contribution made by anybody to the Donnelly Garment Workers' Union other than by the dues of the members and the assessments of the members?

[fol. 5588] A. Not that I ever knew of.

Q. Was there ever a Donnelly Garment Workers' Union meeting at which you discussed the matter of raising funds for the Loyalty League?

A. No.

Q. Was there ever any time that you can recall when a meeting of the Donnelly Union was immediately preceded or immediately followed by a meeting of the Loyalty League?

A. No, there never was.

Q. Was there ever any occasion when Rose Todd said that a meeting of the Donnelly Garment Workers' Union was going to be two meetings, one of the union and another meeting of the Loyalty League?

A. No, she never said that.

Q. Would you look just briefly now at these minutes of May 25th, being Board's exhibit 8-21, appearing at page 4415 of the Circuit Court record and state whether or not you attended that meeting of May 25th?

Mr. Langsdale: Will you read that question, please?

(Thereupon the last question was read by the reporter.)

Mr. Langsdale: Now, I object to the question, he having handed to this witness certain purported minutes with the assumption they are genuine; she should be asked to read them herself and tell. There is a very decided dispute as to whether these are the correct minutes or the ones Miss Greenhaw reported; when he takes his own witness and [fol. 5589] hands her the minutes and says, "These are the minutes of that meeting you attended," I say that is leading and suggestive.

Trial Examiner Batten: But the question to the witness now is, did you attend this meeting.

Mr. Langsdale: Yes, those minutes of this meeting which they say are the correct minutes.

Trial Examiner Batten: You may look at them. Do you know, did you attend that meeting?

A. I think I did, as much as I have read of it; I remember it anyway.

By Mr. Lane:

Q. Well, read as much as you need to to refresh your recollection as to whether you attended it or not.

A. Yes, I remember I did attend this meeting.

Q. Where was that meeting held?

A. On the second floor.

Q. Were there any employees of the Donnelly Company at work during the time that meeting was held on the second floor?

Mr. Langsdale: I object to that question as immaterial. There isn't anything in the minutes even that have been shown her, or in the Elsie Greenhaw minutes that indicates the fact that there was anyone working on that floor. Of course, that is a misinterpretation of the minutes of Elsie Greenhaw, and also of the minutes that he has shown her.

Trial Examiner Batten: Well, the question to the witness is, was there anybody working on that floor at the [fol. 5590] time of the meeting; is that it?

Mr. Lane: That is correct.

Trial Examiner Batten: Well, she may answer.

A. There was not.

[fol. 5591] By Mr. Lane:

Q. Well, I will now show you the so-called Greenhaw minutes, being Board's exhibit 18-A, beginning on page 4709 of the Circuit Court of Appeals record and ask you to read that.

Mr. Langsdale: I object to the characterization of counsel of the minutes which tells the witness before she reads them that they are not genuine in his opinion.

Trial Examiner Batten: Of course, I think it would be better if the words "so-called" were left out.

Mr. Lane: All right, I will say the Greenhaw minutes, leave out the words "so-called".

Trial Examiner Batten: Let's proceed. Of course I don't suppose any counsels' characterizations of an ex-

hibit or the witnesses' testimony is evidence that would be binding upon anybody.

Mr. Lane: Well, isn't that the phrase that is used for identification of this instrument, the so-called Greenhaw minutes?

Trial Examiner Batten: Well, let's proceed.

Mr. Lane: Does "so-called" imply anything?

Trial Examiner Batten: Mr. Lane, I wasn't directing my remarks at you, I was directing my remarks at all counsel. You counsel can make any statement you want, and if you [fol. 5592] want to testify I will have you be sworn and come up here.

By Mr. Lane:

Q. Did you attend any meeting of the Donnelly Garment Workers' Union in May 1937 that convened at 3:30 or 3:45 in the afternoon?

A. I did not.

Q. Did you ever attend any meeting of the Donnelly Garment Workers' Union on May 25, 1937, at which Hobart Atherton said: "As Miss Todd has already told you we have only one debt of the Loyalty League. A good many of you seem to be under the impression we have accumulated quite a lot of bills as we have gone along, but we have only one." Did Hobart Atherton ever say that at a union meeting that you attended?

A. I couldn't have known just what was said there.

By Mr. Lane:

Q. At the meeting of the Donnelly Garment Workers' Union which you said you have attended on May 25, 1937, was there any discussion by anybody about raising money for any purpose of the Loyalty League?

A. Oh, no, there never was.

[fol. 5593] Q. Did Hobart Atherton at that meeting say this: "As Miss Todd has already told you, we have only one debt of the Loyalty League. A good many of you seem to be under the impression we have accumulated quite a lot of bills as we have gone along, but we have only one."?

A. I don't remember him saying that.

Q. Did Rose Todd say at that meeting: "I want to tell you this is going to be two meetings, the first being a meeting of the Donnelly Garment Workers' Union and after that a meeting of the Loyalty League."?

A. No, she didn't say that.

By Mr. Lane:

Q. I will ask you to state whether at the meeting of the Donnelly Garment Workers' Union on that date Hobart Atherton said this: "You all realize when this agitation first started, we didn't have any union started and it was up to some organization to take the initial step to protect our rights as employees of the Donnelly Garment Company. So the Loyalty League had a meeting of the representatives and were authorized by the representatives to retain legal counsel. We retained Mr. Tyler, as you all know. He came down here and talked to us. That debt, the bill of Mr. Tyler is the only debt the Loyalty League has which has not [fol. 5594] been paid and as Miss Todd told you, that is not pressing." Did Hobart Atherton ever say that at a Union meeting?

A. I never heard Hobart Atherton say that.

Q. Was there, at the union meeting of May 25th a motion made that the union meeting be adjourned and that a Loyalty League meeting be immediately opened?

A. No.

Q. Did you, in March or April of 1937, have any section club that you belonged to?

A. Yes, we did have.

Q. What was it called?

A. I don't remember the name of it; I belonged to the club in our section, I know.

Q. Did you have officers?

A. Yes, we did have.

Q. Did you pay any dues?

A. No.

Q. What did you do?

A. Oh, we would just go out to dinner and to a show sometimes.

Q. Was that club in existence when you began working there in 1936?

A. Yes, it was.

Q. Did it continue in existence after April, 1937?

A. Yes, I am sure it did.

[fol. 5595] Q. Was it still in existence in July 1939, as far as you know?

A. I don't know, I wasn't on that floor any more.

Q. Did you know Mrs. Tyhurst in April 1937?

A. Yes, I knew her.

Q. What did she do?

A. Well, I would call her an inspector, she would go through the sections and examine the work as it went through.

Q. Did you consider her a boss or a supervisor?

A. No.

Q. Did you know Mrs. Bogart?

A. No, I didn't know her.

Q. Did you know Mrs. Gray?

A. Yes, I knew her.

Q. What did she do?

A. She was a clerk in the store.

Q. How frequently were you in that store yourself?

A. Oh, just about every day.

Q. What did you see Mrs. Gray doing?

A. Waiting on the girls.

Q. Did you consider Mrs. Gray a supervisor of the company?

A. No.

Q. Or a boss over anybody?

A. No.

Q. Did you know Marvin Price?

[fol. 5596] A. Yes, I knew him.

Q. What did he do?

A. I don't know exactly, something mechanically, I think.

Q. Did you consider him a boss or a supervisor?

A. No.

Q. Did you know Ted Scoles?

A. No, I didn't know him.

Q. Did you consider any of the persons I have named that you say you knew, as persons who were held out by

the company as being representatives of the management in connection with labor matters?

A. No.

Q. Or entitled to speak for the management?

A. No.

Q. Did you know Miss Strickland?

A. Yes, I knew her.

Q. What was her job?

A. She worked in the patterns.

Q. Did you consider her a supervisor or a boss?

A. No.

Q. Did you belong to the Donnelly Garment Workers' Union from the time of its formation down to July 15, 1939, of your own volition and your own free will?

A. I did.

[fol. 5597] By Miss Weyand:

Q. Was Rose Todd wearing a uniform at the April 27th meeting?

A. No, she was not.

Q. Did you ever see Rose Todd wear a uniform?

A. No, I don't think so.

Q. Who asked you to join the Loyalty League?

A. Some girl in my section, I don't remember who she was.

Q. Whom did you consider a representative of the management?

A. I considered Mrs. Reed, Mrs. Reeves, Mr. Green, and Mr. Baty and Mrs. Hyde, that is all I can think of now.

Q. Those are the only persons you consider representatives of the management that you can think of at the present time?

A. At the present time, yes.

Q. Did you attend any meetings of the Loyalty League?

A. Yes, I have.

Q. Do you remember who presided at those meetings?

A. I believe Rose Todd did.

Q. Where were those meetings held?

A. I don't remember now where they were held.

Q. Were they in some vacant floor of the building in which the plant is located?

A. I don't remember that, I never went to but one or two meetings, and I don't remember.

Q. Was it in some other building?

A. No, it was in the building, our building.

[fol. 5598] Q. How long after you went to work was it before you joined the Loyalty League?

A. Oh, I couldn't say exactly; I imagine it was maybe a month or something like that.

Q. Do you know any officers of the Loyalty League other than Rose Todd?

A. Well, we had a representative in the section.

Q. Do you know who the representative in your section was?

A. I don't remember.

Q. Do you remember how the representative in your section was chosen?

A. Through votes by the girls in our section.

Q. Was it by passing a ballot around among the girls at their machines?

A. They would suggest — as they would pass it around each girl would suggest a representative that she thought she would like, and it was passed all around and each one would vote which one they preferred.

Q. That is, first they passed a paper around and each girl would write the name of the one she wanted to nominate, is that correct?

A. Yes.

Q. And the same paper went around, and you marked on it your vote, is that correct?

A. That's right.

[fol. 5599] Q. And that was while you were at your machines in your section; is that correct?

Mr. Reed: Just a moment. I couldn't hear the question.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

A: I don't remember whether we came back from lunch to do that or whether we were at our machines. I don't remember that.

By Miss Weyand:

Q. Did you have a representative from your section in the Donnelly Garment Workers' Union?

A. Do we have?

Q. Did you have prior to July 15, 1939?

A. Yes, we did have.

Q. How were those chosen?

A. Through ballot voting.

Q. Just by your section?

A. I don't know whether that was the way or -- I don't remember.

Q. Was it the same way the Loyalty League representative was chosen?

A. I don't know.

Q. Do you remember ever choosing a Donnelly Garment Workers' Union representative in the same manner you have described as used to choose the Loyalty League representative?

[fol. 5600] A. I don't remember it now.

Q. You don't know one way or the other?

A. No.

Q. Did you ever attend any meeting of any sort while you were employed by the Donnelly Garment Company prior to July 15, 1939, during working hours?

A. I don't think you would call it a meeting. I have gone down in my uniform during working hours to fashion shows and things like that, but that's all I remember.

Q. Did you ever hear Mrs. Reed speak except at the meeting of March 18, 1937?

A. Yes; when we would have our style shows she would always speak about something.

Q. Do you remember whether she ever mentioned labor matters in any of those speeches?

A. I can't recall that she did.

Q. At the March 18 meeting did you hear Mrs. Reed say:

"I want to say that I am awfully happy to have this opportunity to tell you how proud I was when those girls brought the petition out and--well, I have had a lot of nice things happen to me in my lifetime, but I have never had anything that made me so proud and so happy as that list of names that came to my house."

A. I remember her saying something like that. I wouldn't say that those were the exact words.

[fol. 5601] Q. But you remember her saying she was happy to get the petition; is that correct?

A. Yes, I do.

Q. Had you seen the picture in the newspaper of Mrs. Reed receiving that petition?

A. I saw it.

Q. Did you see any of the other girls sign the petition?

A. Yes, I saw the girls around me sign it.

Q. Where were you working at that time?

A. Where was I working?

Q. Yes.

A. On the seventh floor.

Q. And that was in Grace Gnotta's section?

A. Yes.

Q. Do you know who the thread girl was at that time?

A. No.

Q. If I mentioned the last names of some girls who were thread girls at sometime, and you had the first names you have given, do you think you would know whether those were the last names of the thread girls?

A. I might. I'm not sure.

Q. You mentioned an Anna. Could that have been Anna Barthel?

A. I don't remember whether that was her last name or not.

Q. You mentioned a Mary. Could that have been Mary Copowycz?

[fol. 5602] A. I don't know.

Q. You wouldn't remember the last names, yourself, at all, of these girls?

A. Well, I remember Mary's last name now, but I don't know what her last name was at that time.

Q. What is it now?

A. Mary Snedder.

Q. Snedden?

A. Snedder. And I don't know how to spell it.

Q. There is a Snedden—S-n-e-d-d-e-n—on the list here.

A. Maybe that's it.

Q. There is an Edna Binert. Would that be the Edna you mentioned?

A. Something similar to that was her last name, but I wouldn't say that was it.

Q. Did you ever hear it said around the plant by anyone that Mrs. Reed would close down her business before she would have the I. L. G. W. U. in her plant?

A. I never heard anyone say that.

Q. Did you ride the busses which the company provided?

A. Only one morning.

Q. Did you have a bus pass?

A. Yes. Well, I don't know whether I did or not. It seems to me I had something to show when I got on the bus—I'm pretty sure I did. But I only rode it one morning.

[fol. 5603] Q. Do you know whether anyone who attended the meeting of April 27, at which the Donnelly Garment Workers' Union was formed, failed to join that organization at that time?

A. I didn't know of anyone, no.

Q. Do you know whether the instructors were present at that meeting?

A. I think that they were. I think that my instructor was, at least.

Q. Do you know whether Lena Tyhurst was at that meeting?

A. I don't remember. I don't know whether she was or not.

[fol. 5604] Q. Did you have any understanding about whether instructors were allowed to join the Donnelly Garment Workers' Union?

A. I think they were. I don't know for sure, though.

Q. It was your impression that they were members; is that correct? A. Yes.

Q. And that is true as to thread girls, too, is it?

A. At that time, yes.

Q. You said this morning that you had heard threats made that the International Ladies' Garment Workers' Union would use the same sort of violence at the Donnelly Garment Company. Could you tell us what threats you heard and who made them?

A. I don't remember who made them. It has been so long ago, I don't know whether I read it or whether I

[fol. 5605] heard it, but I heard they were going to use the same methods of organizing us that they did the other garment plants here.

Q. You also testified that you felt it would be safer to have a union of your own. What did you mean by that?

A. I thought it would be protection for us. I thought that as a group we could protect ourselves better than each one individually.

Q. What protection do you have reference to?

A. I mean, that another union couldn't come in if we were organized.

Q. You testified this morning that you thought the meeting of April 27 had nothing to do with the Loyalty League. When did you mean you thought that?

A. Was that the meeting where our union was formed?

Q. Yes.

A. Well, I never considered the Loyalty League ever having anything to do with the union; I never even thought of it.

Q. Did you know who was calling the meeting before you went to the meeting?

[fol. 5506] A. I don't remember whether I knew it or not—whether I knew who was calling it or not.

Q. Was Rose Todd presiding when you got to the meeting? A. No, but she did after I got there.

Q. Had you ever attended a meeting before that Rose Todd presided at, that was not a Loyalty League meeting?

A. No.

Q. All of the other meetings which you had attended at which she presided were Loyalty League meetings?

A. The Loyalty League meetings and union meetings are the only meetings I ever attended there.

Q. Do you remember how Loyalty League meetings were called? A. No, I don't remember.

Q. Do you know how Donnelly Garment Workers' Union meetings were called? A. Yes, I do.

Q. How were they?

A. By an i.d.m. sent to us by Miss Todd.

Q. And was that true of the first meetings you attended?

A. I don't remember that.

Q. But after the first few meetings you remember you [fol. 5607] got an i. d. m. from Miss Todd; is that correct?

A. I think so.

Q. Do you remember any officer of the Loyalty League at any time other than Rose Todd?

A. I remember Thelma Huffaker.

Q. Were you at the meeting at which she was elected?

A. Yes, I was.

Q. Do you remember whether Rose Todd had her come up and say a few words after she was elected?

A. I don't know whether it was Rose Todd or someone else. I remember she came up and spoke after she was elected.

Q. Do you remember attending any meeting at which Thelma Huffaker presided? A. No, I don't.

Q. Did you ever attend a meeting at the Donnelly Garment Company of any sort at which there were no chairs?

A. I don't remember that.

Q. If your instructor was absent from your section for a period of time, who was in charge?

Mr. Ingraham: I object to that question as improper. It has no foundation in the evidence.

Trial Examiner Batten: Objection overruled. You may answer.

A. What do you mean, who was in charge?

By Miss Weyand:

Q. If the instructor was absent, who handed you your [fol. 5608] work?

A. If she was absent for a very short period?

Q. Yes.

A. Well, the thread girl handed us our work.

Q. And if the instructor was absent for a day or a week, who took her place?

A. Some other instructor—someone who could instruct, rather.

[fol. 5609] Q. Do you know whether the union had a [fol. 5610] committee which passed on piecework prices for the union? A. I don't know that.

Q. You are a piecework worker, aren't you?

A. Yes.

Q. And you work substantially all of your time at piece rates; is that correct?

A. The bigger part of my time, yes.

By Miss Weyand:

Q. And that was true from the time you went to work in 1936 until July 15, 1939; is that correct? A. That is.

Q. Referring to the period prior to July 15, 1939, do you remember any votes on matters at the Donnelly Gar-
[fol. 5611] ment Company which were not unanimous?

A. No, I can't remember any.

By Mr. Langsdale:

Q. Mrs.—is it Mrs. Garrett? A. Yes.

Q. You are a married woman? A. Yes.

Q. You have heard other witnesses testify in this hearing? A. Yes.

Q. What other witnesses?

A. Lydia Phillips and Ethel Riegel.

[fol. 5612] Q. At the meeting you thought was about the first of April 1937—that is where you said you agreed to give 50 cents apiece—was Mrs. Reeves at that meeting?

A. Mrs. who?

Q. Mrs. Reeves. A. No, I didn't see her.

Q. Do you know whether she was there or not?

A. The only way I would have of knowing would be to see her, and I didn't see her.

Q. She could have been there and you didn't see her?

A. She could have been, but I don't think so.

Q. Was Mr. Baty there? A. I didn't see him.

Q. But you don't know whether he was there or not?

A. No, I don't.

Q. Was Ella Mae Hyde there?

[fol. 5613] A. I didn't see her.

Q. She might have been there and you not see her?

A. Possibly, but not probably.

Q. Do you know?

A. I don't know. I didn't see her.

Q. Were any of these people that were named by Mr. Ingraham—Mr. Green, was he there?

A. I didn't see him.

Q. You don't know whether he was there or not?

A. No, I don't know.

Q. Was Mr. Keyes there?

A. I didn't see him either.

Q. Was Mrs. Keyes there?

A. I didn't know Mrs. Keyes.

Q. Was Mr. Bachofer there? A. I didn't see him.

Q. Was Miss Spilsbury there? A. I didn't see her.

Q. But they may all have been there and you not see them?

A. If I didn't see them, I wouldn't have any way of knowing whether or not they were there.

Q. That's what I mean. Take the meeting of April 27, do you know whether any of these people whom I have named were at that meeting? A. April 27?

[fol. 5614] Q. Yes. That is the one when the union was formed, the Donnelly Garment Workers' Union.

A. I didn't see any of those people there at that time.

Q. But you can't say they were not there?

A. Not definitely that they were not there, but I didn't see them.

Q. Now, at the meeting of April 1, was your instructor there? A. April 1?

Q. Well, the meeting where you say you agreed to give 50 cents a piece.

A. I don't remember whether she was there at that time or not.

Q. But you do remember she was at the meeting of April 27, when the union was formed?

A. I think she was, yes.

Q. Now, at this meeting of March 18, do you remember everything Mrs. Reed said?

A. No, I don't remember everything 5 years ago. I couldn't possibly remember everything she said.

Q. Wasn't she talking to you about the International Ladies' Garment Workers' Union threatening violence to the employees of the Donnelly Company?

A. I don't remember that she said that. The part I remember that she did say concerning that was giving us safe transportation to and from work.

[fol. 5615] Q. Didn't she tell you you have been hearing of the strikes of the International Ladies' Garment Workers' Union and threatening of violence?

A. I don't remember her saying exactly those words.

Q. Anything like that?

A. I remember she said something about she knew we were all upset, but I don't know whether she mentioned the violence or not. She said she would try to see about getting us safe transportation.

Q. Did her speech further upset you about the violence? A. No.

Q. Now, when you read of Senator Reed's calling Mr. Dubinsky a Bolshevist and Communist, did you believe Mr. Dubinsky was a Bolshevist or a Communist?

A. I didn't think a lot about that, because I thought that was just a difference between those two men and that was their own argument.

Q. But did you conclude that he was a Bolshevist or a Communist? A. I didn't think about it.

Q. You didn't give that any thought at all? A. No.

Q. Even though it was said by the attorney for the company you were working for?

A. I just didn't consider the matter any further.

[fol. 5622] Q. What did Rose Todd say to you at the meeting which you have said was about April 1 about Mr. Tyler's fee?

A. I don't remember. She said that we would need some money for counsel, so— I don't remember just what she said.

Q. Did she tell you what the fee was?

A. I don't think she knew.

Q. On April 1? A. That's what I mean, yes.

Q. She didn't at that time know how much it was going to be? A. She said we would need about \$500.

Q. Did she tell you how she knew that?

A. No. I don't know whether she did or not. I don't remember.

Q. She didn't tell you she had already paid Mr. Tyler, on the first of April, did she?

A. I don't remember her saying anything like that.

Q. Did you know she had? A. No.

Q. Rose Todd didn't tell the workers assembled there on that night that Mr. Tyler had already been paid?

A. I don't remember her telling us that.

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[fol. 5625]. Q. Now, Lena Tyhurst, where did you come in contact with her? A. At my machine.

Q. How did you happen to do that?

A. She was looking at some work that we were doing that we didn't know exactly how to put together. She was looking at it—going to take it up and measure it with the pattern and see if it was right.

Q. How did she happen to come to your machine, do you know?

A. Because I wanted to know how to do it. My instructor wasn't just sure.

Q. Who sent for Mrs. Tyhurst? A. I don't know that.

Q. Your instructor? A. I don't know.

Q. Have you any recollection at all?

A. I suppose she called her to take the dresses to the patterns to see if they were right—I don't know.

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[fol. 5627] By Mr. Langsdale:

Q. Did you ever send for her when she wasn't on your floor? A. No.

Q. Now, do you know why anyone sent for Lena Tyhurst to come to your machine and look at your work?

A. Well, because if it isn't right and a lot of it goes through, it causes an awful lot of trouble, and if we don't think it is right it is taken to the patterns to see if it is exactly right, and then there is no more trouble about it.

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Q. Now, Marvin Price, where did you come in contact with him?

A. I have just seen Marvin Price round there.

Q. You didn't know what he was doing?

A. I knew he had something to do with the mechanics, but I didn't know what.

Q. You didn't know whether he was the boss down in [fol. 5628] the mechanical department or not?

A. Well, he didn't act like one, but I don't know what he was.

Q. What do you mean, "he didn't act like one"?

A. He didn't seem to be bossing anyone around.

Q. You were not in the mechanical department, were you?

A. No, but I never did see him come up and tell someone they had this to do when they were working on my machine or something.

Q. You were not down in his department at any time when he was there, were you?

A. I have been up to the cage when he was in there working.

Q. Do you know where his office was—where his desk was?

A. I didn't know he had an office or a desk.

Q. Now, when Mr. Lane asked you if any certain people were held out by the management to speak on labor matters, what did you understand him to mean?

[fol. 5629] By Mr. Langsdale:

Q. What did you understand Mr. Lane to mean by that question?

A. Someone I would consider a boss.

Q. Would you think that all bosses would be speaking for the management in labor matters?

A. I don't know what I would think about that.

Q. Did you know what he meant then,—Mr. Lane?

A. Just what I said is what I thought he meant?

Q. That is, you thought he was using that as synonymous with "boss"? A. Yes.

Q. You said you knew Lyle Jeter and that he was a mechanic? A. Yes, I said that.

Q. You didn't know whether he had the right to boss anybody else or not, did you?

A. No. I knew he worked on my machine; that's all I knew.

Q. But you don't know what he did when he wasn't working on your machine, do you?

A. Working on someone else's machine, is all I ever saw him do.

Q. That is all you ever saw him do? A. Yes.

[fol. 5630] Q. Do you know Lulu Nichols? A. No.

Q. You never heard of Lulu Nichols?

A. No. I know a Mrs. Nichols, I think, but I don't know who she is. I have heard of her, but—

Q. Did you know she fixed prices for the company?

A. No, I didn't know it.

Q. You have never learned that since you have been there?

A. I know a Mike Nichols, but I don't know what she does.

Q. You haven't any idea what she does?

A. I really don't.

Q. Did you know Dewey Atchison?

A. I know Dewey Atchison, yes.

Q. Did you know what he was doing in April, 1937?

[fol. 5631] A. I haven't any idea.

Q. Was he at the meeting where your union was formed? A. I don't know that.

Q. Did you learn that he had become a member of your union on April 27, 1937? A. No, I didn't.

Q. Was he at the meeting you have described as having been held about the first of April, 1937?

A. I don't remember that. If he was, I don't know it.

Q. You don't know whether he gave 50 cents or not?

A. No, I don't.

Q. I think you testified that you had attended the meeting of May 11, 1937?

A. What did we do at that meeting? I don't remember the dates.

Q. That was the first meeting following the organization meeting.

A. I attended all of the meetings after that—most of the meetings after that.

Q. Well, just to be sure, I will show you a photostat of the minutes of that meeting. I don't mean for you to read them all through, but just take a glance at them and see if you read them this morning and said you had attended that meeting.

• Trial Examiner Batten: Is that 8-12?

[fol. 5632] Mr. Langsdale: Yes.

Trial Examiner Batten: Page 4406 of the Circuit Court record?

Mr. Langsdale: Yes.

A. (Referring to minutes.) I would have to read it a little more before I could remember.

Mr. Langsdale: All right. You just read to your heart's content.

(Thereupon the minutes above indicated were read by the witness.)

✓ A. It seems to me I remember some of this. I don't remember all of it.

By Mr. Langsdale:

Q. Do you recall that in answer to Mr. Lane's question you said you had read those minutes and that they correctly reflected what had happened at that meeting?

A. I remember some of this. I can't remember it word for word like it is here.

Q. I don't mean that. But you remember the substance of it? A. Yes.

Q. You stayed throughout the meeting, didn't you?

A. I think so.

Q. Now, let me ask you if you remember this occurred at the meeting—if you remember that this question was [fol. 5633] asked by Miss Todd:

“If a new employee comes in, are you going to set a time before they have to become a member of the union?”

Do you remember that question?

A. I can't remember it.

Q. Do you remember Miss Todd saying:

“Anybody coming to work for us will join the union immediately and if there is any doubt in their mind about whether or not they want to join our union, then there is some doubt in their mind as to whether or not they want to work here.”?

A. I don't remember that.

Q. Do you remember she said something like that?

A. I don't remember anything like that at all.

Q. You don't remember that. But you do remember that she said, just prior to that, "You realize now that Mr. Tyler is representing the Donnelly Garment Workers' Union and he will have to be paid." You remember all of that, do you?

A. Well, I remember— Was that May 11?

Q. Yes.

A. Yes, I remember something to that effect.

Q. And you remember she said, "I expect a good many of you are wondering what he is going to charge."

A. Yes, I remember that.

Q. You remember all of that? A. Well, that was— [fol. 5634] Q. That was what?

A. That was to my interest.

Q. Was it to your interest that Rose Todd could say to the employees of the Donnelly Garment Company, "You will join this union or you will get out."?

A. I never heard Miss Todd say that.

Q. Do you say she didn't say it?

A. If she said it, I say I didn't hear her.

[fol. 5636] By Trial Examiner Batten:

Q. Well now, do you remember, Miss Witness, whether you said this morning that correctly reflected the meeting?

A. I don't remember reading this article this morning.

By Mr. Langsdale:

Q. Do you remember reading any part of it this morning?

A. I remember reading something about Miss Todd saying that it would cost something to have an attorney, and I remember I said that I read that, and remembered it.

Q. Now, didn't Mr. Lane give you the minutes and tell you to read them through? A. I don't know.

Trial Examiner Batten: If I remember correctly, Mr. Lane gave her the minutes and said he had had her look at them before, and said, "Will you look at them briefly

and tell whether you attended this meeting." I think you used the word "briefly", if I recall correctly.

Mr. Lane: I think that's right.

By Mr. Langsdale:

[fol. 5637] Q. Well, had you read these minutes before you took the witness stand?

A. I don't know, I don't remember whether I had or not.

Q. Did you answer this morning, Mr. Lane's question that you had read them before?

Mr. Lane: That was not the question.

Mr. Reed: Now, we object to that because if she did answer, it is in the record, and I think the witness has now pretty plainly stated she did not read all of those minutes.

Mr. Langsdale: Well, if we are going to stall here—

Mr. Reed (Interrupting): I think the question asked by the Examiner himself clarified that very much.

Mr. Langsdale (Continuing): I call for the record there as to what she said in answer to Mr. Lane's question.

Trial Examiner Batten: Well, do you recall what you answered this morning, Miss Witness?

A. I don't recall. I think I just glanced at this this morning. I don't remember exactly whether I said I had read them or not, but I don't think I read this part this morning.

By Mr. Langsdale:

Q. Did you read that part anywhere or any time before you took the witness stand this morning?

A. I don't remember it.

Q. Now, you don't remember it? A. No.

Q. You don't remember whether you told Mr. Lane this morning you had read these minutes?

[fol. 5638] A. I don't think I told him I had.

[fol. 5641] By Mr. Langsdale:

Q. Did you, this morning, identify your signature on this petition, which occurs on page 5380 of the Circuit Court of Appeals record? A. No, I didn't.

Q. Will you look at it and see?

Mr. Reed: If the Examiner please, there is no use taking any time identifying that signature. We admit it is her signature.

Mr. Langsdale: I don't care for the admission. Yesterday they wouldn't admit one.

Trial Examiner Batten: Let's proceed. The question to the witness is whether that is her signature.

A. Yes, that is.

By Mr. Langsdale:

Q. Read the petition. Do you remember that wording of the petition that you signed on March 2?

A. Yes, I remember it.

Q. (Reading) "We, the undersigned, as members of the Donnelly Garment Company, wish to make it known we are positively happy and contented with the positions which we hold with this organization. We are thankful for the real humanitarian interest extended by our employer, Mrs. Reed." You remember that, do you?

A. Yes, I remember it.

[fol. 5642] Q. Now, did you really think you had any chance to refuse to sign that petition and stay on the job?

A. I didn't think it made a lot of difference whether I signed it or not.

Q. Well, did you think it might interfere with your position if you didn't sign it?

A. No, I didn't.

Q. It was passed to you down where your machine was?

A. That's right.

Q. And you knew it was going out to Mrs. Reed?

A. I suppose it was.

Q. You said you signed it because you wanted Mrs. Reed to know that?

A. That's right.

Q. Now; did you think every girl that signed this petition thought that if she failed to sign it she would lose her job?

A. I only knew how I felt.

[fol. 5644] Q. Now, let me call your attention to this part: "The employees of this company aren't only satisfied but on their own motion some months ago organized a Loyalty League to resist the activities of Mr. Dubinsky and his crowd." Do you remember reading that?

A. I don't remember just that part; I didn't read the complete thing this morning.

Q. Oh, I see. All you read was just the part Mr. Ingraham asked you about, is that it?

A. This morning I only read part of it.

Q. But I am talking about when you read it when it came out on May 11. Do you remember reading that part?

A. If that is the statement in the May 11 issue, I read all of it.

[fol. 5645] Q. Now, do you recall that part where Mr. Reed said the Loyalty League was organized to resist the activities of Mr. Dubinsky and his crowd?

A. I probably remembered that at the time, but I don't remember it now.

Q. Well, is that true, as far as you knew?

A. I never thought of the Loyalty League as that; I just thought of it as a club or something.

Q. Well, when you read this interview by Mr. Reed, did that cause you to think about it?

A. I don't remember whether it did or not.

Q. Do you have any reason to doubt it?

A. You mean any reason to doubt what Mr. Reed said?

Q. Yes.

Mr. Reed: I object to that as an improper question, and it is incompetent and immaterial.

Trial Examiner Batten: She may answer.

A. I don't remember what I thought about it.

Mr. Langsdale: You just don't have any recollection, but you do remember you read all about Mr. Reed saying harsh things about Mr. Dubinsky, calling him a Communist and a Bolshevik; you recalled that when Mr. Ingraham asked you the question?

A. I remember reading the speech, but I don't remember all about it.

[fol. 5646] By Mr. Langsdale:

Q. You didn't know Rose Todd had been to the bank and borrowed a thousand dollars from the First National Bank in the name of the Loyalty League on the 30th of [fol. 5647] March, 1937, did you?

A. I didn't know that.

Q. She didn't tell you that on the night she was raising 50¢ per head?

A. Not that I heard, no.

Q. And you never did hear about that until you came to this trial, did you?

A. That's right, I never did.

Q. And you didn't know that on the next day, April 1st, the day you said this meeting was held, that Rose Todd had paid Mr. Tyler \$500 by check on the First National Bank on the thousand dollars she borrowed from that bank; you didn't know that, did you?

A. I didn't know that, no.

Q. So you just went ahead and collected the 50¢ apiece as though Mr. Tyler hadn't been paid, is that correct?

A. We collected—we gave our 50¢.

Q. Yes. Now, could it be possible that you could be mistaken about the date and the time that the 50¢ was voted on, May 25 instead of on April 1st?

A. No, I am sure that it was before May 25.

Q. Why?

A. Well, I remember along about that time our union was formed, and I certainly remember it was not in May, it was in April.

[fol. 5648] Q. Now, do you know who the treasurer of the Loyalty League was at that time?

A. No, I don't remember.

Q. Do you know Pauline Hartman?

A. I don't know her personally, but I did know her.

Q. Didn't you know she was treasurer of the Loyalty League?

A. No, I didn't know that.

Q. And didn't you know that she collected all these 50¢ pieces that all of you contributed and took it to herself to keep?

A. Did I know that?

Q. Yes.

A. No, I didn't know that.

Q. And do you know she didn't put any of those 50¢ pieces in the bank until July 13, 1937?

A. No, I didn't know that.

Q. Did you know that on July 19, with those 50¢ pieces that you all gave, she paid \$750 on that note?

A. No, I didn't know that.

Q. You didn't know any of those things?

A. No.

Q. So, of course, you don't know anything about what the Loyalty League had to do with paying Mr. Tyler?

Mr. Lane: That is objected to as an assumption, a misstatement of the evidence.

[fol. 5649] Trial Examiner Batten: Do you understand the question, Mrs. Garrett?

A. Yes, I didn't know, I didn't know about that.

By Mr. Langsdale:

Q. Do you know that Rose Todd had given a check to Mr. Tyler for \$500 on the first of April, signed Donnelly Loyalty League, by Rose Todd, President, and Pauline Hartman, Treasurer?

A. No.

Q. You never learned that?

A. No.

[fol. 5650] Redirect Examination.

By Mr. Ingraham:

Q. Mrs. Garrett, I believe you stated this morning that you did not consider the meeting of March 18, the meeting where Mrs. Reed spoke, a Loyalty League meeting?

A. No, I didn't consider it a Loyalty League meeting.

Q. Did you consider the meeting that was held the last of March or the first of April a Loyalty League meeting?

A. No.

Q. I believe Miss Weyand asked you a question to the effect that, did Rose Todd preside at any meeting that was not a Loyalty League meeting or a union meeting, a Donnelly Garment Workers' meeting, and I believe you answered "no." Did you mean to include the meeting of March 18 and the meeting that took place the latter part of March?

Mr. Langsdale: Just a moment. I object to that question as an effort to rehabilitate a witness after she has made an answer; it is his witness. She absolutely said she never had been at any meeting presided over by Rose Todd, which was not either a union meeting or a Loyalty League meeting.

Trial Examiner Batten: Well, the question is—to leave it without asking whether she referred to two meetings—now, do you understand the question, Mrs. Garrett?

A. Yes, I understand.

Trial Examiner Batten: You may answer.

[fol. 5651] A. I didn't consider those meetings either Loyalty League or union.

Mr. Ingraham: I have just asked her that and she testified that she did not consider the March 18 or the March 30 meetings Loyalty League meetings, and I just wanted to know—

Trial Examiner Batten: Are you asking a question?

Mr. Ingraham: No, I am just explaining. You said you thought it shouldn't be asked that way.

Trial Examiner Batten: Oh, I simply said I didn't think—whether you should have asked her whether she meant to include those meetings. I thought you should have called it to her attention, what she had testified to, clearly, and asked her what she meant. I have no objection to your question. I think it was Mr. Langsdale that objected to it.

By Mr. Ingraham:

Q. When was the union, the Donnelly Garment Workers' Union, organized?

A. It was organized sometime in April.

Q. After this meeting that you say occurred the latter part of March or the first of April?

A. Yes.

Recross Examination.

By Mr. Lane:

Q. Was it the custom of employees to send slips of paper through the section giving notices about their personal affairs?

A. We had the privilege to do that.

Q. Well, was it customary to do that, for the employees to do that?

A. Well, the only way I could answer that, if we wanted someone to know something we could send a slip of paper to them.

By Mr. Lane:

Q. Well, on what occasions do you recall notices were sent by the employees through the section by writing on a slip of paper?

A. In regard to our club—for instance, if we were planning something about our club, we could send that through our section; one girl could hand it on down the line.

Q. You didn't consider that was a notice sent out by the company?

A. Certainly not.

Q. Did any of the employees send notices for other purposes, making announcements about anything, that you can recall?

A. As far as I know, it has always been our privilege to send anything through that we wanted to.

Q. Well, state whether or not it was the custom or practice among the employees to simply designate all those notices that went through as i. d. m.'s?

A. I don't know just what they would be called. That is what I would think they were.

By Mr. Lane:

Q. Well, when you said this morning a meeting was announced by an i. d. m. sent through the section by Miss Todd, did you believe that notice was a notice that had been circulated by the company?

A. No, I never thought of it as that.

[fol. 5654] ALICE FREED, a witness called by and on behalf of the respondent, being first duly sworn, was examined and testified as follows:

Direct Examination.

Mr. Ingraham: Where do you live, Mrs. Freed?

A. 3031 Troost.

Mr. Langsdale: What was that address?

A. 3031 Troost.

By Mr. Ingraham:

Q. Are you employed? A. I am.

Q. Where? A. The Donnelly Garment Company.

Q. How long have you been employed at the Donnelly Garment Company?

A. I went there in July, 1936.

Mr. Ingraham: In what capacity were you employed?

A. As an operator.

[fol. 5655] By Mr. Ingraham:

Q. Were you working at the Donnelly Garment Company in the spring of 1937? A. I was.

Q. Do you recall strikes at the Missouri, Gernes, and Gordon plants that spring? A. I do.

Q. Do you recall reading in the newspaper about those strikes? A. I do.

Q. I will hand you respondent's exhibit 16 and ask you if you recall seeing the front page of the Kansas City Times of March 18, and saw the pictures that appear at the bottom of that page? A. Yes, I saw them.

Q. I will now hand you respondent's exhibits 18 through 38 inclusive, and ask you if you will state whether or not you recall reading the articles that appear in those exhibits, and as you look through, will you please state the exhibits—whether or not you read the particular exhibit.

A. I remember reading exhibit 18; and I read 19; [fol. 5656] don't remember for certain whether I read 20 or not; I think I read 21; I don't think I read 22; nor 23; I read 24; and I think I read 25; I read 26; also 27; I am not sure about 28; I think I read 29; and 30 I read; I don't remember whether I read 31 or not; I think I read 32; I know I read 33; and 34; in fact I was quite interested; I think I read most of them; and I read 35; also 36; and 37; and I read 38.

Q. You stated that you believed you read most of them because you were quite interested? A. I did.

Q. What did you mean by that?

A. Well, I was employed in a garment company and I was very interested in what was going on.

Q. Had you been up to the strikes at these other plants at that time? A. No, I had not.

Q. What effect, if any, did the reading of these articles that referred to strikes, have on you?

A. Well, they made me rather uneasy on account of the violence.

[fol. 5657] Q. Had you heard of any threats being made against Donnelly employees to use the same sort of violence against them?

Mr. Langsdale: Just a moment. I object to that question as leading and suggestive.

Trial Examiner Batten: Well, I think it is leading, but she may answer.

Mr. Langsdale: I wish to have a continuing objection to that form of questions of this witness.

Trial Examiner Batten: You may have a continuing objection, Mr. Langsdale. Of course, I presume Mr. Ingraham is proceeding on the same basis as before, that where

a witness has an independent recollection, he will pursue it, and if it appears she hasn't, he can then follow the other method.

Mr. Ingraham: Yes.

A. Yes.

By Mr. Ingraham:

Q. Were the strikes at these other plants discussed among the Donnelly employees? A. They were.

Q. What was the effect, so far as you could observe, on these other employees of these strikes?

A. Well, we all seemed to be under a rather nervous [fol. 5658] tension and wondering just what was going to happen.

Q. What caused you to believe that anything was going to happen?

A. Well, I thought if they were trying to organize those companies, they possibly would try to organize ours.

Q. With the same methods? A. Yes, I did.

Q. Did you join the Donnelly Garment Workers' Union?

A. I did.

Q. Do you recall when you joined the union?

A. Well, I think it was about the last of April when we formed our union.

Q. You joined it when the union was formed?

A. That's right.

Q. Did the strikes and violence at these other plants have anything to do with your joining the Donnelly Garment Workers' Union?

A. Well, I preferred to have a union of our own instead of an outsider.

Q. Well, did the strikes at these other plants cause you to want to have a union of your own? A. Yes.

Q. Did Mrs. Reed, Mrs. Reeves, Mr. Green, Mr. Baty, Mr. or Mrs. Keyes, Miss Spilsbury, Mr. Bachofer, or Ella Mae Hyde discuss with you the formation of a plant union? A. No.

[fol. 5659] Q. Did they discuss with you the holding of the meeting of April 27? A. No.

Q. Did any of those people I have mentioned request you to attend the meeting? A. They did not.

Q. Did any of the people that I have mentioned request you to vote to form the Donnelly Garment Workers' Union? A. They did not.

Q. Do you recall the time of day that the meeting of April 27 was held?

Miss Weyand: I object to the question as purely cumulative. I think we have heard enough witnesses on this. It is my position that no other witnesses should be asked the time of day; any further questions on that is cumulative.

Trial Examiner Batten: Why is that any more cumulative than other questions?

Miss Weyand: I intend to object to questions if not entirely personal to the witness from now on as cumulative.

Mr. Reed: Are we to understand that these facts are to be taken as facts, then, and not controverted?

Miss Weyand: No. They are still controverted. I am saying, it is my position that any further questions that are not of a personal—

Mr. Lane: May I ask whether Board's counsel would be [for 5660] willing to stipulate that if the witnesses were asked such questions they would so testify?

Miss Weyand: No, I am not willing to so stipulate.

Trial Examiner Batten: My question is, if that is cumulative, there are a good many of these other matters that are. If that is cumulative, isn't any further testimony with respect to the meeting of April 27 cumulative?

Miss Weyand: Except insofar as the personal reactions of the witness.

Trial Examiner Batten: Isn't that equally true of March 18?

Miss Weyand: That is true, in my view.

Trial Examiner Batten: Isn't it equally true of the meeting the last of March?

Miss Weyand: That is true, in my view.

Trial Examiner Batten: Isn't that true of May 11 and May 25?

Miss Weyand: —Everything that is factual in the case, except the witness' own reaction, which is peculiar to the witness herself, is, in my view, cumulative; that is, as to the questions that have been asked, of course. They might have other questions—

Trial Examiner Batten: Yes. I am referring, of course, to the questions that have been asked.

How about these newspaper articles, and so forth?

[fol. 5661] Miss Weyand: If the witness read them herself, it isn't cumulative. After all, she is the only Alice Freed.

Trial Examiner Batten: Her reaction to those articles, of course, is her own—

Miss Weyand: —her own personal reaction. But any further questions as to the facts are, in my view, cumulative.

Trial Examiner Batten: Mr. Ingraham, what is your position?

Mr. Ingraham: I am not clear on just what Miss Weyand means by "matters that are purely personal to the witness." I am now asking this witness about the time of the meeting of April 27.

Do I understand that your position is, Miss Weyand, that any further evidence would be cumulative and that any further witnesses that we would put on the stand would testify that the meeting was held after working hours?

Miss Weyand: It would be purely cumulative, in my opinion.

Mr. Ingraham: But do you admit that the witnesses would so testify?

Miss Weyand: No, I don't admit that they would so testify.

Trial Examiner Batten: Irrespective of how they would testify, your position is that any further testimony—

Miss Weyand: —by the company to prove that it oc-
[fol. 5662] curred after working hours is purely cumu-
lative:

Mr. Ingraham: Then, it is Miss Weyand's position that she objects, after a number of witnesses have taken the stand and testified about, for instance, the time of day of this meeting, that any further evidence would be cumulative? And I suppose she will present evidence to the contrary. And then it will be said that there were so many witnesses on one side and so many on the other.

Trial Examiner Batten: Well, let's assume she will— Let's assume that if I were to stop it now, she would present some witnesses; is it your position that 1,200 witnesses should state that was held after working hours?

Mr. Ingraham: Well, it is my position that unless Miss Weyand concedes that additional witnesses would testify as these witnesses have testified, we should then be permitted to put on further witnesses, if we so desire.

Trial Examiner Batten: My question is, 1,200?

Mr. Ingraham: Well, I think from what you stated the other day, we are going to have to determine that. You said you wouldn't.

Trial Examiner Batten: Yes. I am asking you now.

Mr. Ingraham: Well, we haven't determined that.

Trial Examiner Batten: Well, I want to know what your position is. I can't rule on this unless I know what your position is.

Mr. Ingraham: Well, we would have to have time to [fol. 5663] consider that.

Trial Examiner Batten: All right. I will give you 15 minutes.

Mr. Ingraham: Oh, I don't know that we could decide that in 15 minutes.

Trial Examiner Batten: Well, I will give you a half an hour.

Mr. Ingraham: Now, it seems to me that this is a very important matter in this case and—

Trial Examiner Batten: Well, Mr. Ingraham, it is surely a matter you have given some thought to before this.

Mr. Ingraham: We have not determined how many witnesses we intend to call.

Trial Examiner Batten: I am not asking you how many. I am asking you whether or not in opposing Miss Weyand's motion, unless she will concede what they will testify to, you have a right to call 1,200 people.

Mr. Ingraham: I think we would.

Trial Examiner Batten: Do you mean, in any hearing lawsuit that that would be proper?

Mr. Ingraham: I think you could stop us—

Trial Examiner Batten: Well, let's concede I could. Let's concede I will. Let's concede that I want to, even. I still want to know from you what you think about it. You certainly have some idea about it.

[fol. 566f] Mr. Ingraham: Our position is that we have other witnesses and—

Trial Examiner Batten: Well, proceed with your witnesses. Proceed with them, certainly. If you have no theory on this of any kind and can't give me any light of any kind—

Mr. Ingraham: I am not saying that.

Trial Examiner Batten: That is the way I take it, directly, Mr. Ingraham. I understand your statement right now to be that you don't care to even indicate what your position is on this question, that you have other witnesses to present, and that is all you care to say. Now, I say, you go ahead and present your witnesses. I expected I would get some help from all counsel on this matter, but—

Mr. Lane: Mr. Examiner, may I make these observations?

Trial Examiner Batten: Just a moment, Mr. Lane.

Mr. Ingraham: The position that I understand you are trying to place respondent in is that respondent is to state that Miss Weyand's objection is proper and—

Trial Examiner Batten: Certainly not.

Mr. Ingraham: —that it is cumulative.

Trial Examiner Batten: I am not trying to place you in any position. I simply asked you a direct question: Is it your position on this matter that you have a right, as you stated, to present 1,200 witnesses on this matter and that it would not be cumulative?

[fol. 5665] Mr. Ingraham: No, I wouldn't say it would not be cumulative. But I think that if it is going to be left up to counsel to determine the number of witnesses— As I understood the position that you took the other day, you were not going to determine how many witnesses—

Trial Examiner Batten: Yes. I asked all of you counsel to get together and try to work out something.

Mr. Ingraham: Then, I think it is certainly up to counsel for the respective parties to determine that.

Trial Examiner Batten: All right. Have any of you talked about it since I mentioned it?

Mr. Ingraham: We have not.

Trial Examiner Batten: Have you, Mr. Langsdale?

Mr. Langsdale: I talked to Mr. Ingraham and made a suggestion that I think is a good one.

Trial Examiner Batten: Have you discussed it with any counsel, Miss Weyand?

Miss Weyand: No, I have not.

Trial Examiner Batten: Have you, Mr. Lane?

Mr. Lane: No, I have not.

Mr. Langsdale: Let me state the suggestion I made to Mr. Ingraham only, and maybe somebody will think it is all right. I haven't talked to Miss Weyand about it and I don't know if she would agree with it or not.

Now, of course Mr. Ingraham would like to have us admit [fol. 5666] that a thousand witnesses whom he will name would testify to the same thing, and maybe we know that a hundred on that list will not so testify, and then if we

would say that, we would tell him who our witnesses are, and we are not going to do that.

I did say to Mr. Ingraham this: As far as the International Ladies' Garment Workers' Union is concerned, whenever he gets ready to quit there will be no unfavorable inference drawn from his failure to put on any more witnesses. If he puts on 25, 50, or 100, we will not say to the Board, "He said he would put on 1,200 witnesses and then didn't do it." In other words, we will take no such position in this.

I am not going to agree that any list of witnesses he names will all testify any one way.

Trial Examiner Batten: Well, counsel, I will deny the motion at this time.

Mr. Lane: May I make this observation at this time:

Miss Weyand says that, with reference to the establishment of the fact of the hour of the beginning of that meeting, that further testimony would be cumulative. I think, as far as the intervener is concerned, that is not the only purpose of directing the witnesses' attention to that meeting. The ultimate issue here is: Whether or not these witnesses were dominated, coerced, or controlled, and whether the Donnelly Garment Workers' Union was a union formed [fol. 5667], under the domination of the Donnelly Garment Company.

Now, whether the witness attended a meeting at 5 o'clock in the afternoon or at 3:30 in the afternoon has some bearing upon that witness' personal reaction as to whether he was under domination or control by the company; and therefore, the conclusion that the witness comes to upon these ultimate facts is in some respect determined by what Miss Weyand says is a purely factual issue in the case, as to which there is sufficient evidence.

Trial Examiner Batten: Of course, Mr. Lane, you are not in the same position as the respondent in your offers of proof. You have named very few people in some of your offers.

Mr. Lane: I think there are about 700 in one of the offers, and that's a good many witnesses.

Trial Examiner Batten: In some of the offers there are only a few.

Mr. Lane: Of course, you understand we are not bound by any number we have named, or that there might not be other witnesses—

Trial Examiner Batten: Whether you are or not—Assume, for this question, that you are; is it your position that you have a right to call every person you have named on your offers of proof and, as you have just stated, perhaps additional ones, whether it is cumulative or not?

Mr. Lane: I think we have the legal right to do so, [fol. 5668] certainly. I think the Examiner, being in charge of the conduct of the trial, has a right to say at any time when in his judgment a sufficient number of witnesses have been presented, so that additional testimony would be cumulative—to say we have gone far enough. Whether that is the exercise of sound discretion is another matter.

Trial Examiner Batten: Of course, I don't agree with you on that. What I am concerned about in asking my question, as I said to Mr. Ingraham, is whether or not you have any suggestion to make that will be helpful to me. Now, it isn't very helpful to me if all of counsel here simply say, "Well, that's your job. We just haven't anything to say about it."

Mr. Lane: You were asking me whether we have the legal right to do so.

Trial Examiner Batten: Yes.

Mr. Lane: I say, in the absence of any stricture on the part of the person in charge of the trial, we do have that legal right; and also, in the absence of any suggestion or restriction, I think counsel for any particular party must necessarily determine when he thinks the interests of his own client have been sufficiently presented.

Trial Examiner Batten: Don't misunderstand me. Any of you lawyers. That is your job; I agree with you

thoroughly on that, Mr. Lane, that you have to determine that in your own mind, every one of you.

Mr. Lane: In that connection, of course, since the inter-[fol. 5669] vener has presented no witnesses yet, I am not prepared to say at what point the intervener would want to stop presenting witnesses, whether we would present 20, 50, or more, but I can say I certainly don't want to present 600 or 700 witnesses here.

Trial Examiner Batten: I will say this: As far as the intervener and respondent are concerned, I suppose the witnesses have been presented by both of you.

You are a proponent here, Mr. Lane.

Mr. Lane: Well, we do not mean to duplicate by calling back the same witnesses.

Trial Examiner Batten: No, I understand that. You are, as far as the further hearing is concerned, as I understand it, in the position of a proponent, because you made offers also. Now, I do not mean by that that you are not going to be permitted to put on any witnesses.

Mr. Lane: I am merely saying I can't say at this time numerically how many witnesses we would want to present. That is a matter of experience. We can't tell until we get into our case and have gone some time where we would want to stop.

Trial Examiner Batten: How long do you think it is going to take you to get into your case?

Mr. Lane: I have no idea what the respondent has in mind.

Trial Examiner Batten: How long do you think it might [fol. 5670] be, Mr. Ingraham, before Mr. Lane could get into his case?

Mr. Ingraham: We can't tell.

Trial Examiner Batten: You mean you haven't the faintest idea what your plans are?

Mr. Ingraham: We intend to put on as many witnesses as you will hear.

Trial Examiner Batten: Well, you bring them on, certainly, Mr. Ingraham.

Mr. Langsdale: It occurs to me it would be dangerous for the Examiner to shut them off, and then have them object to it and then take an exception.

Trial Examiner Batten: Mr. Langsdale, I can tell you now, as far as I can see at the present time, I haven't the faintest idea, not even a hope, of ruling on anything with respect to cumulative matters.

Trial Examiner Batten: I think, Mr. Langsdale, it is important, if the respondent believes that a lot of this testimony, which I don't hesitate to say I consider to be cumulative—repetitious—will be from now on—if the respondent believes that that type of testimony should be [fol. 5671] presented in this hearing, I am going to receive it; I am not going to exclude it.

Mr. Lane: May I say this, Mr. Examiner: I think it isn't fair to any of the parties here now to compel them to state unequivocally what their positions are—

Trial Examiner Batten: I don't want it unequivocally. If they will give me a rough estimate—

Mr. Lane: (Continuing) —without having conferred together as to what kind of an estimate might be reached. I think everybody wants to be adequately heard and to adequately present his case, but I don't think there is anybody here who wants to needlessly prolong the case.

Trial Examiner Batten: No, I don't think so, Mr. Lane, but I will say now, if there is any counsel in this hearing now that hasn't a pretty definite idea about what his plans are, by this time, when we have been going for two and a [fol. 5672] half weeks, I would say he has been negligent to some extent. Now, whether he wants to disclose it to me is another thing. I don't mean you may not have a plan and a very definite plan, which you are entitled to have, but which you feel you should not disclose.

Mr. Ingraham: I will say this: Until the statement that the Examiner has just made, that in his opinion cer-

tain of this evidence is cumulative, we had no idea that you—

Trial Examiner Batten: I said, beginning now, Mr. Ingraham.

Mr. Ingraham: Yes, beginning now—certain evidence would be cumulative.

Trial Examiner Batten: I said, repetitious and cumulative.

Mr. Ingraham: Well, we didn't know, of course, that that was your view.

Trial Examiner Batten: Of course you didn't.

Mr. Ingraham: And we were not going to reach any conclusion until you have indicated that you consider that evidence cumulative.

Trial Examiner Batten: And you don't know now what I am referring to. Therefore, you can only proceed in the manner in which you have been proceeding, because I have not disclosed to any of you, and at the present time I haven't any idea of disclosing to you whether I think it [fol. 5673] is or isn't.

Mr. Ingraham: I understood you to say you thought that there was certain evidence that from now on would be cumulative.

Trial Examiner Batten: I think so, in my own personal opinion—and repetitious.

Mr. Ingraham: Don't you think counsel should be advised as to what evidence you refer to?

Trial Examiner Batten: No. I don't believe I want to take that responsibility at the present time at all.

Mr. Reed: Let me make just this one observation:

Trial Examiner Batten: Yes.

Mr. Reed: The situation presented is this: We put on seven or eight witnesses, and now it is said that anything from now on is cumulative—

Trial Examiner Batten: It isn't so said. There is no such statement in the record, Senator.

Mr. Reed: ~~Well~~ I put my own construction on what was said.

On the other side, the prosecution here say they have a lot of witnesses and—

Trial Examiner Batten: I haven't heard any such statement. I have never heard it.

Mr. Ingraham: Well, that's off the record.

Trial Examiner Batten: I didn't know they had even [fol. 5674] a single witness.

Mr. Reed: I can't make a statement; as I am interrupted at every sentence.

Trial Examiner Batten: Senator, you proceed. I am very sorry.

Mr. Reed: I understand Mr. Langsdale's proposition that he recited here, and I don't suppose that that's off the record, that there be a limit on the number of witnesses that we will use, but, he doesn't put a limit on his witnesses, and he has expressly stated here—he does not propose to give us the names of the witnesses. So, we must proceed, then, without that knowledge. Therefore, the only thing we can do is to continue to offer our witnesses. When that is stopped, either by a stipulation or by the ruling of the Examiner, of course we will have to stop, but we are proceeding in the dark entirely as to what they intend to do. They know what we have done and they hold back any statement or any knowledge from us as to what they intend to do or what "they have up their sleeve," to use a slang phrase.

Trial Examiner Batten: Of course, you would have an opportunity later to meet it.

I can tell you, as far as the Board and the intervenor are concerned, they may offer it, but I am not going to receive any testimony in this hearing unless it is in rebuttal of the testimony which has been offered by the respondent and [fol. 5675] intervenor in accordance with the offers of proof. As far as this first part of the hearing is concerned, it would be limited very definitely to that.

Mr. Langsdale: I think the Senator misunderstood my ballroom talk with Mr. Ingraham. That was, that when they thought they wanted to stop, we would cast no unfavorable inference on their quitting at that time. Now, that does not necessarily involve my having to tell them who my witnesses are. When they think they have put on their 20 best or 100 best, or whether they are best or not, then if they want to quit, I will never raise my voice as to whether they should put on more.

Trial Examiner Batten: We will recess until 5 minutes after 4, and maybe you men and women can talk—

Mr. Reed: (Addressing Mr. Ingraham) We can't "show our hand" if they don't tell us what they have.

Trial Examiner Batten: Now, Senator, I am not asking you to "show your hand." I don't think you should indicate to Mr. Langsdale or Miss Weyand how many witnesses you intend to call, but I do think that somewhere along the line there must be some general principle upon which you people can agree.

Now, don't misunderstand me, for one minute. I am not asking you people to assume the burden of what I have to do, because anytime in this hearing I come to the [fol. 5676] conclusion that there is something I must do, I shall do it, and it will be on my shoulders and no one else's.

Mr. Reed: I am very unfortunate, it seems, in having a voice that carries. I thought I was whispering to Mr. Ingraham.

Trial Examiner Batten: Well, I am sorry, Senator, if I—

[fol. 5677] Trial Examiner Batten: Before you read the question, I want to ask all counsel now, you may advise me in the morning, I want to make the request and you can think it over between now and morning, that any witnesses to be presented from now on, as far as the respondent and intervener is concerned, whether it is possible for you to jointly present them, both being proponents covering the same matters, at least some of the same matters; and whether or not the Board and the Lady Garment Workers' Union cannot do the same thing:

I don't mean by that that we cannot proceed in about the same manner we have been proceeding, but Mr. Lane's statement that they have not started to put in their case raises the question as to whether or not they were going to have four cases here, I mean four distinct parties putting in evidence; now, I want you to give some thought to that tonight.

I see no reason at all why the respondent and the intervenor cannot cooperate in that respect, and why the Board and the Lady Garment Workers' Union counsel can't cooperate in that respect; so you may advise me in the morning, after you have given some thought to it, on that particular matter.

Now, will you read the question?

Miss Weyand: I would like a continuing exception to your ruling.

Trial Examiner Batten: What ruling is that?

Miss Weyand: That this question can be answered by [fol. 5678] this witness. Do you wish me to state each time an objection as to the cumulative matter in the record, or may I have a continuing objection?

Trial Examiner Batten: You may have a continuing objection, because, as I very definitely stated, I haven't any idea at this time that I am going to grant any motion of any kind, with respect to any such motion; and if the time comes when I feel that I want to give further consideration to it, Miss Weyand, I will let you know; however, if you have objections to other questions, other types of questions, I would suggest that you make your objection each time.

Miss Weyand: All right. I could do that.

Trial Examiner Batten: Now, as long as you have thought that up let me understand you; as far as your motion is concerned it is only with respect to this question, although in my statement or question to you, you indicated that practically all of these meetings were now becoming cumulative, at least the meetings of March 18th, the meeting the last of March, the 27th of April, May 11th and May 25th, or any other union meetings.

Miss Weyand: I intend, after you have heard ten witnesses on any given questions, to object to those questions thereafter as being cumulative; as they come up I will object to the question, but will not restate it unless asked on further repetition of the same questions, but each time a question is asked I shall object to it that time as cumulative, as being a factual matter.

Trial Examiner Batten: Well, you may have a continuing objection to those questions.

Mr. Langsdale: Let me be sure I understand. You want counsel to report on matters — that is, as I get it now, Miss Weyand and I should confer together and see if we can prevent duplication?

Trial Examiner Batten: Yes, whether or not you can't jointly present anything you have to present, say for instance as the respondent will put in its case then the intervenor will put in a case, then the Board will put in any other testimony it has, and then you will follow with your testimony. In other words, is it possible for us to work out any sort of a plan where we have, in substance, one party or two parties jointly putting in one case?

Mr. Langsdale: In fact, that is what it is anyway.

Trial Examiner Batten: I know, but in view of Mr. Lane's remark a few moments ago it doesn't appear to be that. Mr. Lane said, "We haven't yet offered any of our witnesses."

Now, that is the reason I want you all to give some thought to it, so tomorrow morning, if you care to —

Mr. Langsdale: (Interrupting) I thought Mr. Lane understood that neither the Board nor the International Lady Garment Workers' Union is going to draw any unfavorable inference about collaboration between him and counsel for the company.

[fol. 5680] Trial Examiner Batten: I understood that, but that doesn't dispose of the matters I just brought up. So, I want you all to give some thought to that.

Mr. Langsdale: Unless that was a defensive remark to keep anyone from knowing how many witnesses you are

going to put on, I would think your witnesses and the company's witnesses would be the same, other than you could put on any one of the witnesses, because the objective is the same.

Trial Examiner Batten: How about you people?

Mr. Langsdale: The same.

Trial Examiner Batten: Would you think the same with respect to you people?

Mr. Lane: Yes. I will say we certainly don't intend to put on the same witnesses the respondent puts on. Now, we may put on some witnesses the respondent has not presented, and so far as it is possible for us to do so any witnesses we offer we will avoid any duplication of the matter on any presented by the respondent. I think there are some interests of the intervenor that are in contrast to that of the respondent.

Trial Examiner Batten: I understand; but your remark that you hadn't put your case in yet, I just didn't want to be confronted, when we finished with the respondent some time in the future, with being presented with a second case by a proponent, which would be unlimited almost, so I am just asking you to talk it over, and if you [fol. 5681] can tell me anything in the morning, all right; if you can't, all right.

Mr. Reed: I think it is a mistake to characterize either the plant union or the company as proponents, they are not proponents.

Trial Examiner Batten: I simply meant as far as —

Mr. Reed: (Interrupting). They ~~are~~ defendants.

Trial Examiner Batten: That's right, but I meant simply as far as this hearing is concerned with respect to the matters we are upon, Senator. I said that before recess.

Mr. Reed: Well, I didn't understand you.

(Thereupon the last question was read by the reporter as follows:

"Do you recall the time of day that the meeting of April 27th was held?")

A. It was after my working hours.

By Mr. Ingraham:

Q. Do you recall where the meeting was held?

A. On the second floor.

Miss Weyand: I object to that as cumulative.

Trial Examiner Battan: I assume our remarks with respect to the prior one are applicable here, and you may have a continuing objection.

[fol. 5682] By Mr. Ingraham:

Q. Did you vote at that meeting in favor of forming the Donnelly Union?

A. Now, it is the May 27th meeting you are talking about?

Q. The April 27th meeting. A. Yes, I did.

Q. Did you vote in favor of forming the Donnelly Garment Workers' Union of your own free will? A. I did.

Q. Did Mrs. Reed, Mrs. Reeves, Mr. Baty, Mr. Green, Mr. and Mrs. Keyes, Miss Spilsbury, Mr. Bachofer or Ella Mae Hyde suggest or direct that you vote in favor of forming [fol. 5683] the Donnelly Garment Workers' Union?

A. No, they did not.

Q. Did any instructor request you or suggest to you that you vote in favor of forming the Donnelly Garment Workers' Union? A. They did not.

Q. Did any thread girl— A. (Interrupting) No.

Q. (Continuing) Request that you vote in favor of forming the Donnelly Garment Workers' Union?

A. No, they did not.

Q. Did you understand or have the impression that if you did not vote to form the Donnelly Garment Workers' Union that you would be penalized by the company?

A. No, I never had that feeling.

Q. Was there any pressure brought to bear by anybody on you to vote in favor of forming the Donnelly Garment Workers' Union? A. There was not.

Q. Was there any pressure brought to bear by anybody to cause you to attend that meeting?

A. No, I went with my own free will.

Q. Was that a meeting of the Loyalty League?

A. No.

Q. Did that meeting have any connection with the Loyalty League so far as you knew?

[fol. 5684] A. No, it did not.

Q. Was the meeting generally attended by employees?

A. Yes.

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: Well, the witness has answered it. The answer may stand. You may have a continuing objection to that question.

By Mr. Ingraham:

Q. Will you state whether or not, in your conversations with other employees of the company, if you ever heard anything said that indicated that the company was bringing pressure to bear on employees to form the Donnelly Garment Workers' Union?

A. No, I never heard anyone say that.

Q. I believe you stated that you read the article that appeared in the Kansas City Star of March 17th, which is respondent's exhibit 27, the article is entitled "Sitters Block a Door." A. Yes, I read that.

Q. Now, do you recall whether or not a meeting was held shortly after the date that this article appeared in the paper on March 17th? A. Yes.

Miss Weyand: I object to that as cumulative.

[fol. 5685] A. Yes, there was.

Trial Examiner Batten: I'll make the same ruling. I will permit the witness to answer, and you may have a continuing objection to that question.

By Mr. Ingraham:

Q. Will you state whether or not—strike that—do you know why the meeting was held?

A. Well, it was more or less conversation about all this violence that was going on, and this article that was in the

paper, and we wondered what we could do to protect ourselves, and we thought we would have a meeting and talk it over.

Q. Do you recall when—strike that—do you recall what [fol. 5686] time of day that meeting was held?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: I make the same ruling. You may have a continuing objection.

A. Well, it was after working hours, I would say about 5 o'clock.

Mr. Ingraham: Do you recall where the meeting was held?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling, and you may have a continuing objection.

A. On the second floor.

Mr. Ingraham: Did Mrs. Reed, Mrs. Reeves, Mr. Baty, Mr. Green, Mr. and Mrs. Keyes, Miss Spilsbury, Mr. Bachofer, or Ella Mae Hyde suggest—

Mr. Reed: (Interrupting) Or any of them.

By Mr. Ingraham:

Q. (Continuing) Or any of them suggest to you that this meeting should be held? A. No.

Q. Did any of those persons named request you to go to the meeting? A. They did not.

Q. Did you understand that you would be penalized by the company if you did not attend the meeting? A. No.

[fol. 5687] Q. Do you recall whether or not Mrs. Reed came to the meeting?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling. You may have a continuing objection.

By Mr. Ingraham:

Q. You may answer.

A. Yes, she came to the meeting.

Q. Did you hear Mrs. Reed state that if the plant was unionized, it would be—strike that question.

Did you hear Mrs. Reed make a talk?

A. Yes, I heard her.

Q. Did Mrs. Reed in her talk make a statement to the effect that if the International unionized the plant it would be closed?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: You may have a continuing objection. The same ruling.

By Mr. Ingraham:

Q. You may answer.

A. No, she didn't make that statement.

Q. Did you hear Mrs. Reed make any statement to the effect that she was not going to let Dubinsky tell her how to run her business?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: You may have a continuing objection. The same ruling.

[fol. 5688] A. No, she did not.

Mr. Ingraham: Did Mrs. Reed make any statements with reference to the right of employees to organize or not organize as they so wished?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Yes, she said we were free to do as we wished to do.

By Mr. Ingraham:

Q. Do you recall if Mrs. Reed made any statement with respect to providing transportation for employees to work?

A. Yes, she said they were taking the matter up to see if they couldn't furnish us safe transportation to and from work.

Q. Do you recall anything that Mrs. Reed said with reference to the International or Dubinsky? A. Yes.

Q. What do you recall that she said?

A. That she was not going to let anyone intimidate her employees, that they were not to be forced to join any organization; that we could do as we wished.

Q. Did Mrs. Reed make any statement with reference to permitting the International or Dubinsky force her to do anything?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

[fol. 5689] Mr. Langsdale: I object to it as leading and suggestive.

Trial Examiner Batten: Will you read the question?

(Thereupon the last question was read by the reporter, as follows:

"Q. Did Mrs. Reed make any statement with reference to permitting the International or Dubinsky force her to do anything?")

Trial Examiner Batten: You may answer.

A. No.

Mr. Ingraham: Do you recall anything else that Mrs. Reed said in that speech?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

Mr. Ingraham: Did you answer that question?

A. No.

Trial Examiner Batten: You may answer.

A. May I have the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Q. Do you recall anything else that Mrs. Reed said in that speech?")

A. She thanked us for the petition that we had all signed and sent her.

By Mr. Ingraham:

Q. Do you recall anything else? A. No, I don't.
[fol. 5690] Q. Do you recall whether or not Mrs. Reed made this statement: "I know you are thinking about the

threats of violence that the union is making against you and the company. I want to say that the company and I intend to do everything possible to protect you in case of any violence."

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Well, I don't just recall her exact words. I do remember about her saying about the transportation.

By Mr. Ingraham:

Q. Do you recall this, following that that I have just read: "We are now trying to make arrangements with the street car company for its buses to go to certain points and pick you people up and bring you to the plant. We will let you know about this as soon as arrangements can be made." A. Yes, I remember that.

[fol. 5691] Q. Do you recall Mrs. Reed making the statement: "Many of you have been here for a number of years, and you know that you have never been asked whether or not you belonged to a union. The company has not discriminated against anyone on that account, and Mr. Dubinsky is not going to make me discriminate against the employees because they would not belong to his union."

A. No, I don't recall that.

Q. Do you recall that Mrs. Reed said: "If you want to belong that is your own business and it is up to you to decide."

Miss Weyand: I object to that as cumulative and repetitious as to this witness in addition.

Trial Examiner Batten: The same ruling.

A. Yes, I remember.

Mr. Ingraham: Do you remember Mrs. Reed making this statement, "I will say that neither Dubinsky or any other buttinsky is going to intimidate me or the company. [fol. 5692] into forcing you to join the International against your will."

Mr. Langsdale: May I have the continuing objection to the form of this question?

Trial Examiner Batten: Yes.

Miss Weyand: I object to the question as cumulative, and in addition it is repetitious as to this witness.

Trial Examiner Batten: Well, as to your objection because of it being cumulative, I will make the same ruling. The witness may answer, and you may have a continuing objection as to the other.

By Mr. Ingraham:

Q. You may answer.

A. Yes, she said that she didn't feel we should be intimidated, to be forced to do anything against our own will.

Q. Did the employees take any action at this meeting with respect to designating or appointing a committee?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Yes, we talked it over and we appointed a committee to see what could be done.

Mr. Ingraham: Do you recall who was appointed on that committee?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Well, I am not right sure, but I think it was Rose Todd and Sallie Ormsby and Hobart Atherton, as well as I remember.

[fol. 5693] Mr. Ingraham: Do you recall what the committee was to do?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. They were to obtain legal advice for us so we would know what we could do legally.

Mr. Ingraham: Now, between the meeting of March 18 and the meeting of April 27, when the union was formed, did the employees hold another meeting?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Yes, we had another meeting the last of March, some time.

By Mr. Ingraham:

Q. Now, at that meeting, did Mrs. Reed and the people I named in my previous questions, or any one of those people, discuss with you the holding of that meeting?

A. They did not.

Q. Did any one of those people suggest to you that you attend that meeting?

A. They did not.

Q. What occurred at that meeting?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Well, the committee reported that they had seen a lawyer for counsel so we could go ahead with this lawfully [fol. 5694] and be in the right; and I think that was the meeting where they reported they had consulted Mr. Tyler, and naturally a lawyer has to have retaining fees, so it was discussed and we decided that 50¢ each would be enough to make up the \$500 which was his retaining fee.

Q. Did you contribute 50¢?

A. I did.

Q. Did you do it at that meeting?

A. No, I did it the next day.

Q. Did you make that contribution of 50¢ to the Loyalty League?

A. I did not.

Q. Was that a Loyalty League meeting?

A. No, sir.

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

Mr. Ingraham: Going back to the first meeting, the meeting of March 18, was that a Loyalty League meeting?

A. No.

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. No, it was not.

By Mr. Ingraham:

Q. Did the fact that Rose Todd took an active part in the three meetings that you have testified about, cause you to believe that these meetings, the meeting of March 18, the [fol. 5695], meeting the last of March, and the meeting of April 27, were Loyalty League meetings?

A. No, it did not.

Q. Did any instructor suggest or direct that you attend any of these meetings?

A. No.

Q. Did any thread girl suggest or discuss with you anything in connection with the attending of these meetings?

A. They did not.

Q. Did you consider an instructor a boss?

A. No.

Q. Did you consider a thread girl a boss?

A. No.

Q. Did the fact that instructors and thread girls may have attended the meeting of April 27, at which the Donnelly Garment Workers' Union was formed, cause you to believe that the company was sponsoring the formation of the Donnelly Garment Workers' Union?

A. No, it did not.

Q. Did the fact that instructors or thread girls attended the meeting of March 18, and the meeting the last of March, cause you to believe that the company was sponsoring those meetings?

A. No.

Q. Did you know of any connection between the Loyalty [fol. 5696] League and the Donnelly Garment Workers' Union?

A. No, I didn't; they were entirely two different organizations.

Q. Were, at any time, meetings of the Loyalty League held immediately preceding or immediately following meetings of the Donnelly Garment Workers' Union?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. No, they never were.

Mr. Ingraham: Do you recall any business of the Loyalty League being discussed at any meeting of the Donnelly Garment Workers' Union?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: You may answer. The same ruling.

A. No, I do not.

By Mr. Ingraham:

Q. Were you a member of the Loyalty League?

A. I was.

Q. What were the activities of the Loyalty League?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: You may answer. The same ruling.

A. They were purely social such as dances and maybe a carnival and some home talent plays.

By Mr. Ingraham:

Q. Did you pay any dues to the Loyalty League?

A. No.

[Col. 5697] Q. Did the Loyalty League or anybody representing the Loyalty League ever bring any pressure on you to cause you to join the Donnelly Garment Workers' Union?

A. No, they did not.

Q. Did you join the Loyalty League of your own free will?

A. I did.

Q. Did anybody bring any pressure on you to cause you to join the Loyalty League?

A. No.

Q. Did you pay dues to the Loyalty League?

A. No.

Q. I will hand you respondent's exhibit No. 6, which appears in the Circuit Court record at 4864, and ask you to

state whether or not you read that article that appeared in the Kansas City Times of February 26, 1937. Will you please read the article? Do you recall reading that article?

A. Yes, I read that article.

Q. Do you recall the statement attributed to Mr. Perlstein, stating: "the union claims only 25 members among the Donnelly workers, but officials said hundreds of others are related to union members. Within a year we will have it completely organized, Mr. Perlstein said. As soon as we have enough members we will call a strike." Do you recall that in the article?

A. Yes, I remember that very definitely.

[fol. 5698] Q. Did you want a strike at the Donnelly plant?

A. I did not.

Q. What did you think would happen if the International called a strike at the Donnelly plant?

A. Well, my reaction to that part of that statement was that I didn't see how they could call it if they didn't have members there.

Q. Well, if a strike was called, did you believe it would be the same kind of a strike that they had at the Gernes, Gordon, and Missouri plants?

A. Yes, that is what I thought.

By Mr. Ingraham:

Q. What did you think that meant?

A. I thought that would mean the same methods that they used in other places, which was violence.

Q. Do you recall the statement in this article stating that part of the union's campaign as directed against the Donnelly Garment Company, "will be to send six women to [fol. 5699] cities and towns where its garments are sold." Do you remember that?

A. Yes.

Q. What did you think that meant?

A. Well, I thought that they were going to try to get people to boycott our products or our dresses.

Q. State whether or not you thought that might affect your job.

A. Yes; of course I did, to a certain extent.

Q. Now, shortly after this article appeared in the paper on February 26, 1937, there was a petition circulated among the employees?

Miss Weyand: I object to that as cumulative.

Trial Examiner Batten: The same ruling.

A. Yes, there was.

[fol. 5700] Q. Did this article that you just read have anything to do with your signing that petition?

A. Well, I suppose it did, to a certain extent. That petition that we signed was— I can't quote it word for word, but it was that we were happy and contented with our work, and that was the way I felt about it.

Q. This article I have called your attention to, was that discussed by other employees in the plant?

A. Yes. We discussed everything that came out in the paper, I think.

Q. What effect, if any, as far as you could observe, did that article have on other employees?

A. Well, we all just felt that we had to really find out what we could do for ourselves and look after our own interests.

Q. Did you want to join the I. L. G. W. U.?

A. No, I did not.

Q. Did you know of any other employees that wanted to join the I. L. G. W. U.?

A. I never heard any say that they did.

Q. I will hand you I. L. G. W. U. Exhibit No. 10 and ask you if the petition you signed had the language at the top of it that appears on the first page of this exhibit, which is page 5961 of the Circuit Court record.

A. Yes, that's what it was.

Q. Did you sign that petition of your own free will? [fol. 5701] A. I did.

Q. Did you know that the petition was going to be sent to Mrs. Reed? A. Yes.

Q. Who presented the petition to you?

A. Mary—I can't remember just her last name.

Q. Where were you when she handed you the petition?

A. I was sitting at my machine working.

Q. Did she say anything to you?

A. She just handed me the paper and asked me to read it, and if I cared to sign it, all right.

Q.—And you stated you would sign the petition?

A. I did.

Q. Did you want Mrs. Reed to know you were happy and contented in your position with the company?

A. Yes. That is the way I felt and I wanted her to know it.

Q. Did you want her to know that you were “thankful for the real humanitarian interest extended by our employer, Mrs. Reed.”? A. Yes, I did.

Q. Did you want Mrs. Reed to know, “and refuse to acknowledge any union labor organization.”?

A. That's right.

Q. Did you have any particular union in mind at that time?

[fol. 5702]. A. Well, I didn't care about any other organization coming in there and organizing us.

Q. What do you mean, “other”?

A. Well, I had the I. L. G. W. U. in mind at that time, I guess, because that seemed to be the topic of the day, mostly.

By Trial Examiner Batten:

Q. How did you know that Mrs. Reed would know that?

A. Well,—

Q. How did you know that she would know what you had in mind, except from reading the petition?

A. Well, the petition said “any other union labor organization.” That was the one we talked about all of the time, but as far as that goes, it just meant any other union labor organization. I didn't want any of them.

Mr. Ingraham: Was there any other union attempting to organize you at that time besides the I. L. G. W. U.?

A. Not that I know of.

Trial Examiner Batten: Well, I think, then, we will adjourn until 9:30 in the morning.

Before closing, don't forget, I would like to have all of you give some thought to the suggestion I made, and also give some thought to whether or not tomorrow morning you

[fol. 5703] can give me some idea of what your plans are. And when I say "plans," I mean, in accordance with my statement today. I do not expect you to disclose your programs to each other. That isn't what I have in mind. But it seems to me you would be able to give me some sort of a general idea. So, I will call on you in the morning for that.

[fol. 5708] Trial Examiner Batten: The hearing will be in order. We will proceed.

Mrs. Freed.

I think we are ready to proceed.

I think I suggested last evening the possibility of counsel discussing some matters between last evening and this morning, and whether or not they could give me any information.

Mr. Ingraham, can you—

Mr. Ingraham: I haven't had a chance to discuss with Mr. Tyler anything concrete. The position of the respondent is that we are putting on our case, and so far as being bound by anything that the intervener, Donnelly Garment Workers' Union, presents in the way of evidence, we don't want to have any understanding that would bind us.

Trial Examiner Batten: Of course, I don't think I even intimated that.

Mr. Ingraham: Well, if the intervener, Donnelly Garment Workers' Union, desires to adopt our evidence, of course, we haven't anything to say about that.

Trial Examiner Batten: And I presume it works the other way also.

Mr. Ingraham: I would think so.

Trial Examiner Batten: Well, but my point was, have [fol. 5709] you given any thought at all to the number of witnesses or the length of time? It seems to me I ought to be able to get some sort of a general idea from counsel.

Mr. Ingraham: Mr. Hogsett, as you know, is in the case with us, and that matter is a matter of considerable

importance, and we did discuss it and we do want to take the matter up with Mr. Hogsett.

Now, he will be home Tuesday, as I understand from his office; and before that time we don't want to even indicate something that Mr. Hogsett might not agree with us about, and we might have different ideas after talking with him.

° Trial Examiner Batten: You mean you haven't discussed this matter with him at all up to this time?

Mr. Ingraham: No, we have not.

° Trial Examiner Batten: You mean even in the preparation of your case?

Mr. Ingraham: No.

° Trial Examiner Batten: Then, I assume that, not having discussed the matter in any way with Mr. Tyler, I don't believe you, Mr. Tyler, have any ideas on the matter, have you?

° Mr. Tyler: If the Examiner please, Mr. Lane and I discussed the situation of some method of limiting the length of testimony, or of the entire case, last night. Personally I am hopeful that it can be done, and I have in my mind the possibility of a suggestion of two, provided it is [fol. 5710] mutually agreed to by all parties, or a ruling is made applying to all parties, limiting their testimony; but Mr. Lane and I haven't come to any agreement, nor have I had an opportunity this morning of discussing it with Mr. Ingraham.

I shall endeavor to do so. I think it has possibilities, and I think it ought to be done.

° Trial Examiner Batten: Of course, you understand, Mr. Tyler, I stated yesterday—I don't presume you have seen the record—my idea in getting from counsel their ideas as to whether something could be worked out is not that I want to avoid making any ruling, which I should make. I'll make it when I think it should be made. That was not my purpose.

My purpose was to see whether or not there isn't some basis upon which all counsel can get together on some sort of a plan. In other words, your plan would be better than

any suggestion I could possibly make, and that was my thought. It was also my thought, as I stated yesterday, as far as the respondent and the intervener are concerned, certainly there doesn't need to be duplication.

I stated also, as far as the Board is concerned, and the Ladies' Garment Workers, we didn't need to go over the same ground twice. Now, that, of course, is within reasonable limits.

As Mr. Ingraham just stated, the respondent may want to adopt part of the testimony and it may not. You may [fol. 5711] feel that part of the testimony of the respondent covers some of your points, and you may feel some of it does not. Now, I am not trying to limit you on that. I am simply trying to find out whether or not there is any basis, common basis, on which something can be anticipated.

Now, I think you all realize that, of course, the Circuit Court didn't even have in mind 1200 witnesses, at least from reading it I didn't contemplate they even had that in mind, because if they did, they, of course, would realize that no administrative hearing nor judicial tribunal could ever function—I mean, it would be just beyond ordinary possible comprehension; so that I am looking for suggestions.

Now, after you have all talked it over, if none of you have any suggestions, why, of course, I will consider ways and means of equitably adjusting the matter. But I am only concerned with what you men think you can do.

Mr. Tyler: Well, I'll state that the intervener doesn't feel that it is necessary to make any formal motion adopting the evidence of the respondent.

Trial Examiner Batten: That's right, that isn't necessary.

Mr. Tyler: Any evidence it produces that assists in proving our contention is already to our benefit without a specific motion.

Trial Examiner Batten: That's right, Mr. Tyler. No [fol. 5712] one would even contemplate you would go through the record, or Mr. Ingraham would, or Mr. Langs-

dale would, or Miss Weyand would, and say, "We adopt that and reject that," that is not even under contemplation.

Mr Tyler: And I will say further the intervener doesn't feel there is any obligation on it, or even would it be proper for it to endeavor to put on as many witnesses as the respondent, just to show it is carrying its end of the case.

I don't think there is any such obligation, and I don't think that is proper.

I will add that I will agree with you that the Court of Appeals said 1200 witnesses shall not be heard, in effect; they said, of course, it isn't necessary to hear 1200 witnesses; there are means of handling cumulative testimony, and I think it would be error for the Examiner to assume that the Court of Appeals was even willing that any such number of witnesses would be put on.

Trial Examiner Batten: Well, I will appreciate it, of course, if you men will give it further thought, and I will probably call upon you again tomorrow and again Monday, to see whether or not you have discussed it amongst yourselves.

In fact, I think I shall recess right now until 10:30 for the purpose of all counsel to get together and discuss this amongst yourselves, the Board, Mr. Langsdale, Mr. Ingraham, Mr. Tyler, all of you; so we will adjourn right now [fol. 5713] until 10:30, and you counsel may all, right here, discuss this matter, whether or not there is any possibility of arriving at anything.

So, until 10:30, we are recessed.

Mr. Langsdale: I suggest, Mr. Examiner, that the witnesses be excluded from the room during the discussion of any counsel.

Trial Examiner Batten: Well, I think that is advisable. So, if the witnesses will find some other place to retire to.

(Thereupon a recess was taken from 10 o'clock a. m. to 2 p. m.)

After Recess

(Thereupon the hearing was resumed, pursuant to recess, at 2 p. m., and the following proceedings were had:)

Trial Examiner Batten: The hearing will be in order. Mrs. Freed.

We will proceed, Mr. Ingraham.

ALICE FREED, a witness heretofore called by and on behalf of the respondent, having been previously sworn, was examined and testified further as follows:

Direct Examination (Continued)

By Mr. Ingraham:

Q. I will hand you respondent's exhibit No. 7 and ask you if you recall reading this article that appeared in the Journal-Post of March 6, 1937?

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[fol. 5714] By Mr. Ingraham:

Q. Do you recall whether or not you read that article?

A. Yes, I read that.

Q. Did the statement attributed to Mr. Dubinsky in this article, which was: "Mr. Reed said many harsh things about me during the recent political campaign," did that influence you in any way, that Mr. Reed had said anything about Dubinsky?

A. No, it did not.

Q. Did you hear Mr. Reed make any political speeches in the 1936 campaign?

A. No.

Q. Did anything that Senator Reed ever said that you heard of with regard to Dubinsky influence you in any way?

A. Not in the least.

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By Mr. Ingraham:

Q. I believe you stated that you read respondent's exhibit 35, which was an article that appeared in the Journal-Post on April 22, 1937, entitled, "Donnelly Worker will be sent to Union Convention"?

[fol. 5715] A. Yes, I read that.

Q. Were you at work the following morning, after that newspaper article was published?

A. I was.

Q. What floor did you work on?

A. I was on the seventh floor.

Q. Did you hear that article discussed among other employees?

A. Yes, I did.

Q. What effect did that article have on other employees?

A. Well, they felt the same as I did, they were rather indignant because they hadn't authorized anyone to represent them.

Q. State whether or not they — strike that.

Did the employees discuss the statement attributed to Mr. Perlstein: "Perlstein said the Donnelly Committee desired one of their number to appear at the convention and ask the International to endorse and support a strike against their employer." Do you recall that?

A. Yes.

Q. State whether or not the employees wanted a strike.

A. No.

Q. Did you see Sylvia Hull on the morning of the 23rd?

A. Yes.

Q. Where did you see her?

A. As she came down to her locker when she went [fol. 5716] home. Her locker was on the seventh floor, not very far from where I was working.

Q. I see. Did you leave your work?

A. No.

Q. Did you know a girl named Fern Sigler?

A. No.

Q. You didn't see her that morning?

A. No.

Q. Did you hear any employees make the statement they did not want to work if Sylvia Hull remained there at work?

Mr. Langsdale: Just a moment. I object to that as leading and suggestive. The witness ought to be asked to say what she heard without telling her what she heard.

Trial Examiner Batten: You may answer.

Mr. Langsdale: May I have a continuing objection?

Trial Examiner Batten: Yes.

Mr. Langsdale: Leading questions to this witness?

Trial Examiner Batten: Yes.

A. Will you read that again, please?

(Thereupon the last question was read by the reporter.)

A. I don't remember hearing anyone say that.

[fol. 5717] Cross-Examination.

By Mr. Lane:

Q. Mrs. Freed, how long did you work on the seventh floor during 1937?

A. I was there all the time.

Q. What section were you in?

A. 519.

By Mr. Lane:

Q. In March and April of that year who was your instructor?

A. Rosetta Cook.

Q. Will you describe what Rosetta Cook did as an instructor of that section?

A. Well, she would instruct we girls in the making of dresses.

Q. Did she ever, so far as you know, hire or fire any of the operators in section 519 when you were there?

A. No.

Q. Did you ever see her or hear her discipline an operator?

A. No.

Q. Did you regard her as a supervisor?

A. No.

Q. Or a supervisory employee of the company?

A. No.

Q. Did you regard her as having a superior position to your own?

[fol. 5718] A. No, I didn't.

Q. Did you think of her as being your boss?

A. No.

Q. Who was your thread girl in March and April 1937?

A. Well, I can't exactly remember, but I do think it was Marie Ashley at that time.

Q. What did she do as thread girl?

A. Well, she would bring we girls the thread to match the material we were working on, and labels and shoulder tapes.

Q. Did she ever hire or fire any operator that you know of?

A. No.

By Mr. Lane:

Q. Did you ever hear her or see her discipline any operators?

A. No, I never did.

[fol. 5719] Q. Did you regard the thread girl as a supervisory employee?

A. I did not.

Q. Did you regard her as your boss?

A. No.

Q. Did you think that her position was superior to your position?

A. I did not.

Q. Now, is what you have said of Rosetta Cook, your instructor, true of all the other instructors in the plant, so far as you know?

A. That's right.

Q. And is what you have said of Marie Ashley, the thread girl, true of all the other thread girls in the plant, as far as you know?

A. Yes.

Q. Did you regard any instructor or any thread girl as a boss or as a supervisory employee?

A. No.

Q. Did you know Rose Todd in March and April of 1937?

A. I saw her through the building.

Q. Did you have a speaking acquaintance with her?

A. No.

Q. Did you know her by name?

A. I knew what her name was, yes.

Q. Did you observe her doing anything around the plant?

[fol. 5720] A. She would come into the section and take care of the bundles that would have recuts off, that had been off for some time, or something that had been lost off of it, take care of it so the work could go on.

By Mr. Lane:

Q. Will you explain what you mean by taking care of bundles that had recuts off of them, or something of that kind?

A. Well, sometimes we had a bundle that come to us where there may be a flaw in the material, and then we have to send for a recut, and of course we got to hold the bundle until the recut comes back.

Q. Do you mean by that that you sent that same garment down to match the bundle you have?

A. That's right.

Q. That the garment you have has some flaw in it?

A. That's right.

Q. Is that all you ever heard of Rose Todd doing?

A. Yes.

Q. Did you regard Rose Todd as a boss?

A. No.

Q. Did Rose Todd, so far as you know, have any employees working under her, whose activities she supervised?

[fol. 5721] A. Not that I ever knew of.

Q. Did you ever hear Rose Todd say anything that indicated she regarded that she was a supervisory employee of the company?

A. I never did.

Q. Did you ever hear anybody say that Rose Todd was a supervisor or a boss?

A. No.

Q. Did you know Hobart Atherton?

A. I knew who he was.

Q. Did you know what he did in March and April of 1937?

A. No.

Q. Did you see him occasionally around the plant?

A. Yes.

Q. Did you see what he was doing?

A. No, I did not.

Q. Did he ever do anything that you observed that made you believe that he was a supervisory employee of the company?

A. No.

Q. Did you know Sallie Ormsby?

A. Yes.

Q. What did she do?

A. She was an operator.

Q. Do you know what section she was in?

A. I think at that time she was on the eighth floor, I am not sure.

[fol. 5722] Q. Did you know Ethel Riegel?

A. No.

Mr. Langsdale: Who was that?

Mr. Lane: Ethel Riegel.

By Mr. Lane:

Q. Did you know Arch Lyle?

A. No.

Q. Did you know Lena Faulconer?

A. No.

Q. Or Eva Lieberman?

A. No.

Q. Did you know Mrs. Riggs?

A. No.

Q. Or Lyle Jeter?

A. Yes.

Q. What did he do?

A. He was a mechanic.

Q. What did you observe him doing around the plant?

A. Fixing the machines.

Q. Did you ever see him doing anything else?

A. No, I never did.

Q. Did you regard him as a boss or as a supervisor of the company?

A. No.

Q. Did he have any employees working under him who acted as he directed as a supervisor, as far as you know?

[fol. 5723] A. No, none that I knew of.

Q. Did you know Cordelia Taylor? A. No.

Q. Or Leona Moore? A. Yes.

Q. What did she do? A. She was an operator.

Q. Did you know Ellen Nokes? A. No.

Q. Or Virginia White? A. No.

Q. Did you know Fred Brown?

A. I knew who he was.

Q. Did you know where he worked?

A. In the cutting department, I think.

Q. Did you know Mamie Riddle? A. No.

Q. Did you know Anna Richards? A. No.

Q. Or Marjorie Green? A. I knew who she was.

Q. Where did she work? A. In the office.

Q. Did you know Jack McConaughy? A. Yes.

[fol. 5724] Q. Where did he work?

A. He was in the mechanics' cage.

Q. Did you know Charlie Casey? A. No.

Q. Did you know Hazel Saucke? A. No.

Q. Or Anna Reece? A. No.

Q. Was there anybody who attended the meeting of April 27, 1937, at which the Donnelly Garment Workers' Union was formed, that you regarded as a supervisory employee or a boss or a representative of the management?

A. Not that I saw.

Q. Was there anybody who participated in the meeting by talking or making a motion, or taking any other part in the meeting, that you regarded as being a boss or a supervisor of the company? A. No.

Q. You voted at that meeting, I believe you said, in favor of forming the Donnelly Garment Workers' Union?

A. I did.

Q. You cast that vote of your own free will, did you?

A. I did.

Q. When you voted that way, did you think that you were doing a voluntary act on your part, exercising your [fol. 5725] own right to express preference?

A. I certainly did.

Q. Was there anything in your mind at that time that you thought amounted to domination or coercion or intimidation on the part of the company?

A. There was not.

Q. Was there any instance or any fact that you can think of that to your mind indicated that the company was endeavoring to persuade you or any other employees about joining or forming any union or staying out of any union?

A. No.

Q. For the purpose of refreshing your recollection, I will show you Board's exhibit 8-12, appearing at page 4406 of the Circuit Court of Appeals record, being the minutes of the meeting of the Donnelly Garment Workers' Union of May 11, 1937. Will you look at those sufficiently to tell whether or not you attended that meeting?

[fol. 5726] By Mr. Lane:

Q. Did you attend that meeting? A. Yes, I did.

Q. Did you attend the union meetings after April 27, 1937, fairly regularly? A. I did.

Q. Do you recall any discussion at the May 11 meeting with regard to payment of Mr. Tyler for his services to the union?

Mr. Langsdale: Just a moment. I object to the question as leading and suggestive. She has been shown what Mr. Lane has told her are the minutes of the meeting of May 11 of the Donnelly Garment Workers' Union, which she has spent considerable time reading—I assume, from beginning to end. Thereafter Mr. Lane takes the document which she has just read back to the counsel table and proceeds to ask her whether or not she remembers this, that, and the other happening, from the minutes he has told her were the genuine minutes of the meeting of the Donnelly Garment Workers' Union of May 11, 1937.

I object to it as leading and suggestive and an improper method of examining the witness.

[fol. 5727] Trial Examiner Batten: You may answer.

A. Yes, we discussed the payment.

Mr. Lane: Did you understand or believe, yourself, that the Donnelly Garment Workers' Union had to be self-supporting?

A. Yes.

Mr. Langsdale: May I have a continuing objection to that form of question?

Trial Examiner Batten: Yes.

Mr. Lane: Do you know of any contribution, any financial contribution, that was ever made to the Donnelly Garment Workers' Union by anybody, other than by dues and assessments of its members?

A. No, I don't.

Q. Was there ever an occasion in May, or thereabouts, in 1937, at which a meeting of the Donnelly Garment Workers' Union was immediately followed by a meeting of the Loyalty League?

[fol. 5728] A. There was not.

Q. Was there ever an occasion when Rose Todd said at a union meeting that it was, in fact, going to be two meetings, one a union meeting and the other a Loyalty League meeting? A. No.

Q. Did you ever discuss at a union meeting in 1937 the matter of raising money for the Loyalty League? A. No.

Mr. Lane: I will hand you Board's exhibit No. 8-21, beginning on page 4415 of the Circuit Court of Appeals record, and ask you to look at that briefly, just sufficiently to state whether you attended that meeting of the Donnelly Garment Workers' Union on May 25.

Mr. Langsdale: I object to the question as assuming that the document which he has handed her recites the happenings of the meeting on May 25, 1937, there being a sharp controversy as to whether or not the document he has handed her is the genuine minutes or whether the document which was introduced by Elsa Greenhaw is the genuine minutes of that meeting. I think it is extremely leading and suggestive for him to hand to her a document which claims to be the genuine minutes of the meeting, at [fol. 5729] the same time telling her they are the genuine minutes, and then asking her if she attended the meeting.

Trial Examiner Batten: I will overrule the objection.

As I have stated before, I am not going to attempt to tell any counsel how to ask their questions. If they want to proceed in that manner, or any other manner, they may do so. But, of course, as I previously said, the type of question, I presume, will be taken into consideration when you consider the weight which will be given the testimony.

You may proceed.

Was there a question?

Mr. Lane: Yes, there is a question pending.

(Thereupon Board's exhibit No. 8-21 was read by the witness.)

By Mr. Lane:

Q. Did you attend that meeting? A. Yes, I did.

Q. Now, in view of Mr. Langsdale's statement, I will show you Board's exhibit No. 18-A, beginning on page 4709 of the Circuit Court of Appeals record, and ask you to look at these minutes purported to have been kept by Elsa Graham Greenhaw.

Mr. Langsdale: I object to that question for the same reason, that he is, in effect, telling her that they are not the genuine minutes which he is showing her, when he describes them as "purported minutes." He handed her what he said were the genuine minutes of the meeting before. It [fol. 5730] is entirely leading and suggestive and an unfair method of examination of his own witness.

Trial Examiner Batten: I will overrule the objection.

Will you read the question, please?

Mr. Lane: There is no question pending. I just asked her to read the notes.

Trial Examiner Batten: You want her to read them in their entirety?

Mr. Lane: I want her to read Board's exhibit No. 18-A, yes, in view of what Mr. Langsdale said about the minutes.

Trial Examiner Batten: I presume, then, these have never been referred to before—she has not looked at them before?

Mr. Lane: I believe not. I didn't have access to them, and I believe this witness has not read them; I'm not sure.

Trial Examiner Batten: I thought the other day we were going to have these witnesses look at the documents ahead of time.

Mr. Lane: I have endeavored to do that with the witnesses, but we have been spending time in consultation and I simply have not had the time to do that with this witness.

I would like the record to show, Mr. Examiner, when I said we had been in consultation, I meant Board's counsel, Mr. Langsdale, and we had been in consultation. That was the consultation I was referring to, pursuant to Your Honor's suggestion.

[fol. 5731] Trial Examiner Batten: Would you mind letting me know if you accomplished anything, as long as you have brought the matter up?

Mr. Lane: Are you asking me that question?

Trial Examiner Batten: Yes.

Mr. Lane: I think we didn't come to any specific agreement yet as to how we could present our case.

Trial Examiner Batten: I hadn't intended to ask you, unless someone volunteered, but as long as you brought the matter up, I thought—

Mr. Lane: I didn't bring it up other than to refer to the conference.

By Mr. Lane:

Q. During April and May of 1937, what was the quitting time of your section?

A. I think at that time it was 4:20.

Q. Was there ever any time in April or May of 1937 that a union meeting began at 3:30 or 3:45 in the afternoon? A. No.

Q. Did you generally get to the union meetings before the meeting had actually begun? A. I did.

Q. Did you get to the meeting on May 25 before it started?

A. I must have, because I was never late to any of them.
[fol. 5732] Q. I will ask you to state whether or not at the union meeting held on May 25 Rose Todd said, "I want to tell you this is going to be two meetings, the first being a meeting of the Donnelly Garment Workers' Union and after that a meeting of the Loyalty League."

Mr. Langsdale: I object to this line of cross-examination for the same reasons I objected to the manner of cross-examination about the document he showed her just prior to this, which he said was the genuine minutes of the meeting of May 25.

Trial Examiner Batten: I will overrule the objection.

You may answer.

By Mr. Lane:

Q. Did Rose Todd say that in the union meeting?

A. No.

Q. Did Hobart Atherton say at that meeting, "There seems to be a little misunderstanding as to why the Loyalty League needs this money, and a little later on I will explain that to you."? A. No.

Q. I will ask you if this was said at that meeting: "A motion has been made that we adjourn our union meeting and immediately open our Loyalty League meeting."?

A. None of our union meetings were followed or preceded by a Loyalty League meeting.

[fol. 5733] Q. Was that motion made at that meeting?

A. No.

Q. I will ask you whether at that union meeting or at the meeting held on that day Hobart Atherton said this, "As Miss Todd has already told you, we have only one debt of the Loyalty League. A good many of you seem to be under the impression that we have accumulated quite a lot of bills as we have gone along, but we have only one. You all realize when this agitation first started we didn't have any union started and it was up to some organization to take the initial steps to protect the rights of employees of the Donnelly Company, so the Loyalty League had a meeting of the representatives and was authorized by the representatives to retain legal counsel. We retained Mr. Tyler, as you all know. He came down here and talked to us. That

debt, the bill to Mr. Tyler, is the only bill the Loyalty League has and, as Miss Todd told you, that is not pressing."

Was anything like that said at the meeting on May 25?

A. No.

Q. I will show you Board's exhibit No. 1-RRRR, beginning at page 3471 of the Circuit Court of Appeals record, being the offer of proof made by intervener, and will direct your attention to page 3480 of that offer and to the— Now I was going to say the 14th signature in the right-hand column, but in the copy which the Board has made of [fol. 5734] the photostat which we offered they haven't got the names—they are either not in the same sequence or they haven't the same number of names in the column, so in the typewritten copy of the record it is the 22d name in the right-hand column and in the photostatic copy of the record it is the 14th name.

I will ask you to state whether or not that (indicating) is your signature.

A. That is.

Q. Will you look briefly at that exhibit?

(Thereupon the exhibit referred to was read by the witness.)

Q. Did you sign that offer of proof?

A. I did.

Q. I will ask you whether or not at the meeting of March 18, 1937, at which Mrs. Reed spoke, Mrs. Reed said she would not allow members of the International Garment Workers' Union to work at the Donnelly Garment Company.

Mr. Langsdale: Just a moment. I object to this manner of cross-examination. Counsel shows her an offer of proof which she signed, containing certain statements, and she reads it. Then he takes the document back to the counsel table and reads from it, asking her if certain portions of it are true. She signed it and evidently she intended to convey the impression that it was true when she signed it.

I object to it for the reason that it is improper examination [fol. 5735] of this witness and it is repetition because

the offer of proof—the fact that she says she signed it is not a statement of fact that that thing happened; and for the further reason that the question contains conclusions of law that are matters for this Board to decide and not for this witness to state in this hearing.

Trial Examiner Batten: I will overrule your objection, Mr. Langsdale, because I think we are proceeding here on the theory that these employees may express their conclusions and opinions, and so forth.

She may answer, and; if you want to, on cross-examination you may determine what the basis of her opinion or conclusion is.

Mr. Langsdale: There was another element of my objection, and that was that it is repetition. She said she signed it, and it is in evidence.

Trial Examiner Batten: Of course, you wouldn't want me to accept the offer of proof as evidence, would you, because someone signed it?

Mr. Langsdale: She said she signed it. Doesn't that make it evidence?

Trial Examiner Batten: Well, do you think so? If so, I might suggest that we receive affidavits from all of these people, and you won't have to bring them in here.

Mr. Langsdale: That isn't so at all. This is a document [fol. 5736] ment she read and says she signed. Isn't it repetition to take it back then and say, "Did you?—Is that true?"

Trial Examiner Batten: I would say it would be repetition if this were evidence.

Let's proceed.

By Mr. Lane:

Q. The question is, did Mrs. Reed in the meeting of March 18, at which she spoke, say she would not allow members of the International Ladies' Garment Workers' Union to work in the Donnelly Garment Company?

A. I don't remember hearing Mrs. Reed say that.

Q. Did she say that the I. L. G. W. U. would never be allowed in her plant?

A. I didn't hear that.

Q. Did she say she wanted the names of anybody who joined the I. L. G. W. U. reported to her?

A. No.

Q. Did you from April 27, 1937, the date when the Donnelly Garment Workers' Union was formed, up to July 15, 1939, belong to the Donnelly Garment Workers' Union of your own free will?

A. I did.

[fol. 5737] By Mr. Lane:

Q. Did you know Lena Tyhurst?

A. I did.

Q. What did she do?

A. Well, she would come in the section and inspect the work as it went—well, as it went through the section, the quality of it and the workmanship.

[fol. 5738] Q. Was she, in your opinion, a supervisory official of the company in 1937?

A. No.

Q. Did you know Mrs. Bogart?

A. No.

Q. Did you know Mrs. Gray?

A. Yes.

Q. What did she do?

A. She worked in the store.

Q. How frequently were you in the store in that period, in 1937?

A. Oh, I went in most every noon.

Q. What did you observe Mrs. Gray doing?

A. Waiting on the girls.

Q. Did you ever have any conversation with her?

A. Not that I remember of.

Q. Did you regard Mrs. Gray as a supervisory official of the company?

A. No.

Q. Did you know Marvin Price?

A. I just knew who he was.

Q. What did he do?

A. I wouldn't know.

Q. Did you know Ted Scoles?

A. I knew who he was.

[fol. 5739] Q. Did you know what he did?

A. He was in the cutting room.

Q. Did you regard him as a supervisory official of the company?

A. No.

Q. Did you know Mrs. Strickland?

A. No.

Q. Did you regard Hobart Atherton as a supervisory official of the company?

A. I did not.

Q. Did you belong to any section club?

A. I did.

Q. Do you know the name of it?

A. I don't know whether we had a name for our club in our section or not. I don't recall it.

Q. Was that in section 519?

A. It was.

Q. Did you have any officers?

A. Yes.

Q. Did you pay dues?

A. Yes, we girls paid 5 cents a week.

Q. What did that club do?

A. Oh, we would have a dinner now and then, and go to the show, and things like that.

Q. Was that club in existence prior to April 27, 1937?

[fol. 5740] A. Yes.

Q. Did it continue in existence after April 27, 1937?

A. Yes.

Q. Was it still in existence on July 15, 1939?

A. Yes.

[fol. 5741] Trial Examiner Batten: Miss Weyand.

By Miss Weyand:

Q. Did you work at other garment companies before you went to work at the Donnelly Garment Company?

A. I did.

Q. What other garment companies did you work at?

A. The Tilden Manufacturing Company, at Ames, Iowa.

Q. Is that the only other garment company you worked for?

A. Yes.

Q. What was your period of employment with them?

A. Well, I was there from 1931 until in the spring of 1936.

Q. What was your job with them?

A. As an operator.

Q. When did you join the Loyalty League?

A. Soon after I came to work at the Donnelly Garment Company.

Q. Who asked you to join the Loyalty League?

A. I don't remember.

Q. Did you join at a meeting?

A. No.

Q. Were you in your section when you joined?

A. I couldn't say as to that.

Q. Do you know who the officers of the Loyalty League were at the time you joined?

A. Rose Todd was chairman.

Q. Did you know any of the other officers of the Loyalty League at that time?

[fol. 5742] A. No, I did not.

Q. Do you know any officers of the Loyalty League at any time?

A. Well, after Rose Todd, Thelma Huffaker.

Q. Were you present at any meeting when Thelma Huffaker presided?

A. No, I was not.

Q. Were you present at any meeting where Rose Todd introduced Thelma Huffaker and had her say a few words?

A. No.

Q. Did your section have a representative in the Loyalty League?

A. I don't remember whether they did or not.

Q. Do you know whether your section has had, prior to July 15, 1939, a representative in the Donnelly Garment Workers' Union?

A. I don't remember whether they had one in the section on that floor or not.

Q. Did you work continuously on the seventh floor from the time you went to work in 1936 to July 15, 1939?

A. I did.

Q. Did you work continuously in section 519?

A. When I first went there it was 517 and then they moved in a new section and moved our section over and it was called 519.

Q. But otherwise you continued to work in the same [fol. 5743] section throughout that period?

A. Yes.

Q. Was Rosetta Cook your instructor throughout that period?

A. You mean from —

Q. (Interrupting) From the time you first went into the section until July 15, 1939?

A. No.

Q. What other instructors did the section have?

A. Pearl Collins.

Q. Is she the only other instructor the section had?

A. Yes.

Q. Do you know when she was the instructor of the section?

A. Well, as near as I can recall it was in the spring of 1938 until, I think, in August 1939, or around there sometime.

Q. Was Marie Ashley the only thread girl the section had during that period?

A. No.

Q. What other thread girl did the section have?

A. Jessie Mudd and Thelma Huffaker.

Q. Can you tell me the period of time which Jessie Mudd was the thread girl in that section?

A. No, I don't remember.

Q. Was it subsequent to March and April 1937?

A. Well, I don't think so. As near as I can remember, Marie Ashley was.

[fol. 5744] Q. I was asking whether it was subsequent to that time.

Trial Examiner Batten: Was it after that time?

A. That Jessie Mudd was?

By Trial Examiner Batten:

Q. Yes.

A. As near as I can remember, yes.

By Miss Weyand:

Q. When was Thelma Huffaker the thread girl in that section?

A. Well, I can't remember that.

Q. Do you know the order in which you had those thread girls?

A. No, I don't. I do remember that Marie Ashley was the first one.

Q. You don't remember whether Jessie Mudd was the second or third, or Thelma Huffaker the second or third?

A. No, I don't.

Q. Do you know when Marie Ashley ceased to be the thread girl in that section?

A. No, I don't remember that.

Q. Do you have any approximation of the date?

A. No.

Q. Did you know that continuously from the latter part of May, 1937, until July 15, 1939, the Donnelly Garment Workers' Union had a closed shop contract with the Donnelly Garment Company?

A. I knew we had a closed shop, but I don't remember just when that did take effect.

[fol. 5745] Q. Do you have any idea when it did take effect, what year, how long after you were organized?

A. No, I don't.

Q. Do you have any idea whether it was in effect a year or two years prior to July 15, 1939?

A. I don't remember.

Q. Do you know that the contract between the Donnelly Garment Workers' Union and the Donnelly Garment Company had always had a closed shop provision in it?

A. No.

Q. Did you know that at all times subsequent to May 27, 1937, if you had ceased to be a member of the Donnelly Garment Workers' Union, by the terms of the contract the company would have had to discharge you?

A. No, I didn't.

Q. You didn't know that?

A. I suppose I knew it at the time, but I didn't dwell on the subject, I don't remember of it.

Q. Did you know at any time during that period that there was a closed shop contract?

A. Yes.

Q. You testified here that continuously from the time you joined the Donnelly Garment Workers' Union, until July 15, 1939, you remained a member of your own free will, is that true?

A. That's true.

[fol. 5746] Q. Can you explain how you believed it was of your own free will that you were a member during that period, when the company would have discharged you if you had ceased to be a member?

A. Well, no one intimidated me in any way to join it. I did it of my own free will and I continued to belong to it because in the first place I joined it because it was what I wanted, and felt it was what I wanted, and I continued to belong to it.

Q. But within a month of the time you joined it, the company agreed to fire any girl who didn't belong to it. If you had ceased to belong to it, you would have lost your job. And you say, still, it was of your own free will that you remained a member?

Mr. Reed: That is objected to as only an argument and not a question.

Trial Examiner Batten: Overruled.

Mr. Lane: It is objected to further because she doesn't know when the closed shop agreement went into effect.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Trial Examiner Batten: You may answer.

Mr. Reed: The company didn't make any such agreement.

Trial Examiner Batten: You may answer.

A. Yes, I continued to remain a member of my own free will.

By Miss Weyand:

Q. You considered the manner of your conduct a matter [fol. 5747] of free will, when you knew if you had done something different you would have lost your job?

Mr. Reed: Well, I object to that as a hypothetical question.

Trial Examiner Batten: I think it is hypothetical but very practical, Senator.

Mr. Reed: How is that?

Trial Examiner Batten: I think it is hypothetical but very practical.

Mr. Reed: Well, we object to it as an improper question.

Trial Examiner Batten: Will you read the question, please?

(Thereupon, the last question was read by the reporter.)

Mr. Reed: That simply means nothing, that question.

Trial Examiner Batten: Well, Senator, will you let the witness determine that question, please?

Mr. Reed: I am making an objection to you.

Trial Examiner Batten: Well, I will overrule that. I don't think that is an objection. The thing is whether or not the witness understands the question, Senator.

By Trial Examiner Batten:

Q. Do you understand the question, Miss Witness?

A. Well, if he will read it again, please. The discussion comes up and I want to be sure of the question.

Trial Examiner Batten: Well, we will have it read to [fol. 5748] you and you think about it a moment.

(Thereupon the last question was read by the reporter as follows:

"Q. You considered the manner of your conduct a matter of free will, when you knew if you had done something different you would have lost your job?")

Mr. Reed: Now, I object to that as incompetent and immaterial.

Trial Examiner Batten: Senator, will you please let the witness think a minute? I suggested that, and I will instruct her not to answer until you permit her to answer.

Mr. Reed: Well, very well, we will do it your way.

Trial Examiner Batten: Now, will you read the question?

A. No, I remember the question.

By Trial Examiner Batten:

Q. Do you recall it now?

A. Yes.

Trial Examiner Batten: Just a moment. Now, Senator, do you have an objection?

Mr. Reed: I object to it as incompetent and immaterial and speculative, and as throwing no light on the issues in this case, and as a meaningless question.

A. Yes, I felt that I was at my own free will.

By Miss Weyand:

Q. What would you consider something not of your own free will?

Mr. Reed: I can't hear that question.

[fol. 5749] Trial Examiner Batten: Will you read it, please?

(Thereupon the last question was read by the reporter, as follows:

"Q. What would you consider something not of your own free will?")

Mr. Reed: I object to that as incompetent and immaterial and meaningless.

Trial Examiner Batten: Well, of course, under present conditions—

Mr. Reed: (Interrupting) And it is speculative.

Trial Examiner Batten: Under present conditions I would wonder what—I don't believe that is—that might lead us off into a philosophical discussion of any subject. I don't believe, unless it is restated—

By Miss Weyand:

Q. Did you consider the loss of your job as something undesirable?

A. Why, yes, I would not consider that desirable.

Q. Would you have felt free to join the International Ladies' Garment Workers' Union after the closed shop contract was signed?

A. I wasn't interested in any other union. I am quite sure our union asked for the closed shop; that is what I wanted.

Q. Did you sign a check-off authorization?

A. A what?

Q. A check-off authorization.

A. Not that I remember of.

[fol. 5750] Q. Does the company check—or did the company, prior to July 15, 1939, check-off from your pay check the dues of the Donnelly Garment Workers' Union?

A. No, they were collected.

Q. Continuously until July 15, 1939, no dues were checked off from your pay check, is that correct?

A. As near as I remember right now, it is.

Trial Examiner Batten: Well, don't you remember whether on the check you got there was a deduction for union dues?

A. Well, my insurance is deducted, but I can't say right now all that time that anything else was or not, but I remember that our dues were collected at the beginning of our union.

By Miss Weyand:

Q. How long do you remember them being collected?

A. I just don't remember because I never gave it a thought; I know I always paid mine.

Q. Is it your belief that they were collected continuously from the time the union was formed until July 15, 1939, by some individual from you?

A. I just don't remember.

Q. Did you ever hear of the company, prior to July 15, 1939, checking off the dues of any employee?

A. I wouldn't know about anyone else's check but my own.

Q. Do you have your check stubs for that period?
[fol. 5751]. A. I do.

Q. Can you look at them tonight and report back tomorrow with them here and state to us whether the dues were checked off, and bring the check stubs in?

A. I can.

Q. Will you do that?

A. Yes.

Q. Do you remember how many times prior to July 15, 1939, the amounts were collected around the plant to pay fees to Mr. Tyler?

Mr. Ingraham: Will you read that question, please?

(Thereupon the last question was read by the reporter.)

Mr. Lane: I object to it because it is indefinite. Is she talking about—

Trial Examiner Batten: (Interrupting) Well, it seems to me it is very definite, and a very simple question. The question is, how many times were amounts collected around the plant to pay fees to Mr. Tyler.

Mr. Lane: What did she mean by "around the plant"?

Trial Examiner Batten: Well, the Donnelly Garment Company plant, of course.

You may answer.

Mr. Lane: There is no evidence—

Trial Examiner Batten: (Interrupting) Just a moment, Mr. Lane. If you have made your objection, I will overrule [fol. 5752] it. Will you permit the witness to answer?

Mr. Langsdale: She doesn't mean out in the alley.

Mr. Lane: Well, I am objecting to it because the question implies, as a fact, something that is not in evidence. That is the basis of my objection.

Trial Examiner Batten: Overruled. You may answer.

A. Why, we had one or two special assessments, I don't remember just how many, but there weren't more than one or two, I am sure.

By Miss Weyand:

Q. Do you remember when those assessments occurred?

A. Not after the first one, no.

Q. Do you remember the amount of those assessments?

A. Well, one was a dollar, but I just couldn't say.

Q. Do you know when the dollar assessment was paid?

A. No, I don't remember that.

Q. Do you remember how it was collected?

A. There was someone appointed to take that money up.

Q. Do you remember whether you paid the dollar assessment in one lump sum or in installments?

A. I paid it all at one time.

Q. Besides the dollar which you have just now mentioned paying, did you pay any other sums for Mr. Tyler's fee?

A. If there were other assessments, I did.

Q. You have no recollection?

[fol. 5753] A. I can't remember at the present time or recall just when they were.

Q. And you are speaking amounts you paid any time for Mr. Tyler's fee?

A. I said we had one or two assessments, I don't remember just exactly.

Q. During the period prior to July 15, 1939, where were meetings of the Donnelly Garment Workers' Union held?

A. On the second floor.

Q. Were all meetings prior to July 15, 1939, held on the second floor?

A. That's right.

Q. Was the question raised at any meeting as to whether or not the Donnelly Garment Workers' Union had the right to meet on the second floor?

A. I don't remember.

Q. Was any question raised as to what was a proper meeting place?

A. I don't remember that.

Q. Did you read the minutes of the meeting of May 11, 1937, this morning, when Mr. Lane—or this afternoon—when Mr. Lane handed them to you?

A. Yes, I did.

Q. Did you notice in those minutes any question raised as to where was a proper meeting place?

[fol. 5754] A. Well, I can't recall everything that was in those minutes, by just reading them here hurriedly.

Q. You have no recollection now from any meeting, or from reading the minutes, of any such matter with regard to any meeting of the Donnelly Garment Workers' Union?

A. I suppose naturally we discussed the proper place to hold the meetings, but I don't just recall when or where.

Q. Do you recall anyone asking whether it was proper to meet on company premises?

A. The company was not using that floor.

Q. Do you know whether or not the company was leasing that floor at any time prior to July 15, 1939?

A. I don't know.

Q. Do you know whether the Donnelly Garment Workers' Union paid rent to the company for that floor at any time prior to July 15, 1939?

A. I don't know.

Q. Do you know how notices of meetings of the Donnelly Garment Workers' Union were mimeographed or dittoed?

A. You mean how they—

Q. (Interrupting) Who did it, where it was done?

A. No, I do not.

Q. Do you know whether the Donnelly Garment Workers' Union used facilities of the company in preparing the notices of meetings?

[fol. 5755] A. No.

Q. Do you know whether the Donnelly Garment Workers' Union paid the company for the use of facilities to get out its notices?

Mr. Lane: That is objected to for the witness testified she didn't know how they were prepared. The question assumes they were prepared by the use of company facilities.

Trial Examiner Batten: Of course, the witness has testified she doesn't know whether they were prepared by company facilities. Of course, if she doesn't know, I don't presume she would be able to say whether they were paid for or not paid for.

Mr. Tyler: I object to it further because unless this witness was shown to be charged with some of the business

dealings of the union, it is wholly incompetent, or unless she knows the business that is carried on.

Trial Examiner Batten: Well, of course, Mr. Tyler, thus far in the hearing, if I had eliminated all the testimony on the basis of your objection, I am afraid that a good share of it wouldn't be in here. I will overrule the objection; but I don't think it is a proper question, because the witness said that she doesn't know, so how could she say they were paid or weren't paid, if she doesn't know?

By Miss Weyand:

Q. Do you know whether the Donnelly Garment Workers' Union used any facilities of the company for any [fol. 5756] purpose?

A. No, I do not.

Q. Do you know whether the Donnelly Garment Workers' Union ever paid the company for any facilities?

Mr. Reed: Well, now, that is the same question. I renew the objection just made, in view of the comment of the Examiner. It seems to me it is highly improper to press that question.

Trial Examiner Batten: Will you read the prior question to the last one, please?

Thereupon, the question requested was read by the reporter, as follows:

"Q. Do you know whether the Donnelly Garment Workers' Union used any facilities of the company for any purpose?"

Trial Examiner Batten: What is the answer?

(Thereupon the last answer was read by the reporter.)

Trial Examiner Batten: Well, I think in substance it is the same thing. If she doesn't know whether they used them, how would she know whether they paid for them or not?

Miss Weyard: Do you know whether, when the Donnelly Garment Workers' Union had social affairs, salesmen or officers or executives of the Donnelly Garment Company ever bought large blocks of tickets?

A. No, I do not.

Trial Examiner Batten: Will you just speak a little [fol. 5757] louder, Mrs. Freed, please?

A. No, I do not.

Miss Weyand: When you testified earlier that you did not know of any financial support to the union except by assessments and dues, you did not know whether or not there might have been such financial support, did you?

Mr. Lane: That is objected to as speculative, what might have been.

Trial Examiner Batten: Well, I think it is. Of course, I think it is proper to ask this witness whether there might have been, without her knowledge. That would be, it seems to me, just as complete as the question, "So far as you know."

Miss Weyand: I will withdraw the question and ask you to state, do you know whether or not the company did give any financial support to the union?

Mr. Ingraham: Just a minute. That is repetition. The previous question back was that same question.

Trial Examiner Batten: Well, you may answer.

A. Well, we were a self-supporting organization.

Miss Weyand: You don't know yourself one way or the other whether or not the company did give financial support to the Donnelly Garment Workers' Union?

A. Well, no; but we were a self-supporting organization and raised our own money and our own dues.

Trial Examiner Batten: As a matter of fact, Miss [fol. 5758] Witness, you don't know one way or the other for certain, do you? A. No. How could I?

Trial Examiner Batten: Well, that is the answer.

Miss Weyand: And the same answer would apply to support other than financial support, would it, by granting its facilities or use of the room?

Mr. Reed: I object to that as repetition. It has been gone over and over again.

Trial Examiner Batten: Well, she has testified she didn't know anything about it.

Trial Examiner Batten: You wouldn't know whether the company had given to the Independent or plant union the use of its room, free of charge, you wouldn't know that, would you?

A. Why, no, I wasn't in charge of that part of it.

Miss Weyand: Whom do you regard as the bosses?

A. Mrs. Reed, Mr. Baty, Mr. Green, Mrs. Reeves.

[fol. 5759] A. (Continuing) —and Mrs. Hyde—Ella Mae Hyde.

By Miss Weyand:

Q. Was that all you regarded as bosses?

A. At that time that was about the only ones I knew the names of.

Q. Do you regard those persons as representatives of the management? A. I do.

Q. Do you regard any other persons as representatives of the management, having regard to the year 1937?

Mr. Reed: Pardon me, but I couldn't hear the question.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

A. Yes, there are other people, but I don't know who they are, because I haven't come in contact with them in any way.

By Miss Weyand:

Q. Those are the only ones whose names you know of, are they?

A. The only ones I can think of at the present time.

Q. Whom do you regard as a supervisory employee?

A. Mr. Baty.

Q. Any other persons? A. Mrs. Hyde.

Q. Any other persons?

[fol. 5760] A. I would regard all of the management of the company.

Q. Would that include other persons than those you have named, that you know the names of?

A. The ones that are in the management of the company.

Q. You have named the names of every person you regard as a boss or representative of the management, or as a supervisory employee, whom you knew the name of; is that correct? A. Yes.

Q. And when you answered questions this morning in which the words "boss," "representative of the management," or "supervisory employee" were used, you had regard only to these persons?

A. No. I had regard to the entire management.

Q. But you know the names of no other person in that group? A. Well, Mrs. Strickland.

Q. Who else?

A. And Miss Spilsbury. I don't recall any others.

Q. Those were the only persons whose names you knew or had in mind when you answered the questions this morning that had the words "boss," "representative of the management," or "supervisory employee;" is that correct?

The Witness: Will you repeat the question, please?

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

A. Those are the only names that I know, yes.

Miss Weyand: Or had in mind, when you answered those questions?

[fol. 5761] Mr. Reed: I couldn't hear the question.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Or had in mind, when you answered those questions?"

A. No. I had in mind—

Trial Examiner Batten: Well, those were the only names you had in mind?

The Witness: Those were the only names.

Trial Examiner Batten: Is that what you meant?

Miss Weyand: Yes.

By Miss Weyand:

Q. Do you know whether any of those persons were present at the meeting of March 18 or April 27?

A. I didn't see any of them there.

Q. Do you know whether or not they were present?

A. Without seeing them, I wouldn't know, but I am sure they were not or I would have seen them.

Miss Weyand: That is all of the questions I have.

Trial Examiner Batten: Mr. Langsdale?

Cross-Examination

By Mr. Langsdale:

Q. When did you first hear of the meeting of March 18?

A. That day.

Q. From whom?

[fol. 5762] A. I don't remember.

Q. What time of day?

A. I don't remember that.

Q. Where were you?

A. I couldn't say where I was at.

Q. Did you talk to anybody about the meeting before you got to the meeting?

A. Well, it was by word of mouth that there was to be a meeting.

Q. That's what I wondered. Who by word of mouth told you about it?

A. Well, after five years I couldn't remember just who. We all talked about it.

Q. Have you any recollection at all of anybody you talked to? A. No.

Q. Did you know anything about the meeting until you got there, except that there was to be a meeting?

A. Well, I knew we were going to have one before I went to it, of course.

Q. Did you talk to anyone about the meeting, what the meeting was for, or anything of that sort, before you got there? A. I don't remember.

Q. Do you remember to whom you gave your 50 cents the day after the meeting that you say was the latter part of March?

[fol. 5763] A. No, I don't remember. There was a girl who was to take it up, and I gave it to her.

Q. Do you remember hearing Rose Todd say, "You can give it to the representative in your section."?

A. No.

Q. You don't remember that?

A. Girls were appointed in each section to collect the money.

Q. Where were they appointed?

A. I don't remember.

Q. How do you know they were appointed?

A. Well, someone had to collect the money, so—

Q. I know that. And someone did. But how did you know to whom to give your money?

A. Well, it was discussed that we were giving 50 cents and that there would be someone to take up the money.

Q. How did you find out who was to take up your money?

A. Well, I don't remember, at the time. I suppose I learned her name, or when she came and asked me for it—I don't remember.

Q. Do you know? A. Do I know who the girl was?

Mr. Reed: Now, the witness has answered, she doesn't remember. The next question, "Do you know?" is an improper question.

Mr. Langsdale: She said she supposes, and I am asking [fol. 5764] her if she knows.

Trial Examiner Batten: Do you know whom you gave your money to? A. No, I don't. —

Trial Examiner Batten: Then, that is the answer, if you don't know.

By Mr. Langsdale:

Q. And you don't know how you happened to give it to the girl you did give it to?

A. Yes, because she was to take up the 50 cents in our section.

Q. Who? A. The girl I gave it to.

Q. How did you know she was to take it up?

A. I know there wouldn't have been anybody else taking it up.

Q. Anybody else than whom?

A. Than the girl who was appointed to.

Q. Appointed by whom? A. I don't know.

Q. You say you saw Sylvia Hull when she came to her locker on her way out of the building on the morning of the 23d of April? A. I did.

Q. Where was her locker?

A. On the seventh floor, not far from where I was working.

[fol. 5765] Q. Did you talk with her?

A. I did not.

Q. Did you learn from any source that she had been told to go home?

A. I did not.

Q. Did you learn from any source she had appeared that morning with an International Ladies' Garment Workers' Union pin on?

A. No.

Q. And you didn't know why she was leaving?

A. No, I didn't know why she was leaving.

Q. You didn't hear that from anybody?

A. No. I was busy at my work.

Q. You didn't hear from anybody why she was leaving?

A. No.

Q. Did it occur to you as unusual that she was leaving at that time of the morning?

A. Why, no. Sometimes the girls have something they might want to do that day and they ask to be excused. She had a perfect right to leave. I thought nothing of it.

Q. You suspected nothing unusual about her leaving?

A. No.

Q. How long have you known Sylvia Hull?

A. I didn't know her. That was the first time I ever saw her.

Q. How did you know it was she, then?

[fol. 5766] A. Someone said that was Sylvia Hull.

Q. Who said that?

A. I don't know who said it.

Q. Do you know how they happened to say, "That's Sylvia Hull."?

A. I don't know. I suppose someone said, "Who is that girl going home?" and someone said, I don't know.

Q. You say there is nothing unusual about a girl coming and getting her belongings out of the locker and leaving; is that true?

A. That happens once in a while, if you have something you have to attend to and ask to be excused.

Q. But someone did say to you, "That's Sylvia Hull."?

A. That's right.

Q. Did that mean anything to you at all?

A. Yes. I had read the article in the paper the night before.

Q. About Sylvia Hull's going to the convention?

A. Yes.

Q. Did that person tell you, who told you "That's Sylvia Hull," that she read that article, too?

A. I don't know.

Q. You said Rosetta Cook was your instructor?

A. Yes.

Q. You went to work there in 1936?

[fol. 5767] A. That's right.

Q. I believe you answered you knew Rose Todd by sight only; is that correct?

A. That's right.

Q. You had never talked with her?

A. Not at that time.

Q. At what time? Up to July 15, 1939?

A. No.

Q. You just knew who she was as she would pass through your section?

A. I hadn't talked to her before.

Q. Now, let's get you right. You had never talked to Sylvia Hull up to July 15, 1939?

A. I never talked with Sylvia Hull in my life.

Q. You say you saw her there doing something with reference to bundles?

Mr. Ingraham: Just a minute.

Trial Examiner Batten: You said "Rose Todd," and now you are talking about Sylvia Hull.

Mr. Langsdale: I beg your pardon. That was a mistake. I meant Rose Todd.

By Mr. Langsdale:

Q. You said you had never talked to Rose Todd?

A. Not up to that time.

Q. Up to July 15, 1939?

[fol. 5768] A. Oh, I talked to her before then.

Q. When?

A. Oh, I couldn't say, but I know I hadn't talked to her in the spring of 1937.

Q. You didn't talk to her in March or April of 1937?

A. Not that I remember.

Q. And you did say you had seen her in your section doing something with reference to bundles?

A. That's right.

Q. Did she do anything with reference to any of your bundles?

A. Not that I ever remember of.

Q. Did you ask her what she was doing with reference to any bundles?

A. No.

Q. Did you find out what she was doing with reference to any bundles?

A. Well, I suppose that I had heard the girls say that was what she did, and that is what it seemed to me she was doing.

Q. What?

A. Taking care of the lost bundles.

Q. Did you see her take care of any lost bundles?

A. Yes. She used to come in there and get the lost bundles and take care of them.

[fol. 5769] Q. What do you mean "lost bundles"?

A. They have recuts out of them and wouldn't be complete.

Q. Would that be a bundle some girl in the section would have been working on?

A. Yes.

Q. Tell me who had been working on any bundle you saw Rose Todd come in and take care of?

A. I don't know.

Q. Do you know of any occasion upon which you saw Rose Todd come on this floor and take care of any bundle?

A. I have seen her come and go, but I had my work to do and I couldn't—

Q. You didn't pay any attention to her; is that right?

- A. Why, no.
- Q. You don't know what she was doing, then, do you?
- A. I know what her duties were.
- Q. What were they?
- A. Checking up the bundles that had reents out of them.
- Q. How do you know that?
- A. Well, naturally, you learn what people do.
- Q. Did you learn what she was doing?
- A. Yes.
- Q. From whom?
- A. Well, from hearing the girls say that that was what she was supposed to do, and that's what she did.
- [fol. 5770] Q. What girls?
- A. The girls in the section I worked with. In fact, I think I asked some girl what she did.
- Q. What girl did you ask?
- A. I don't remember, after five years.
- Q. You say you knew Hobart Atherton?
- A. I knew who he was.
- Q. Did you ever see him about the plant?
- A. Yes.
- Q. Doing what?
- A. Just passing through on my floor. I would happen to look up and see him.
- Q. How did you know it was Hobart Atherton?
- A. Well, you just learn the names of people when you work there.
- Q. Is that all you ever saw of him, just walking through your floor?
- A. That's all I ever saw him doing.
- Q. And why he was walking through the floor you don't know?
- A. No. I suppose he was on his way to take care of his duties.
- Q. But what his duties were he was on his way to take care of you don't know?
- A. I don't know.
- [fol. 5771] Q. You say you knew Lyle Jeter?
- A. That's right.
- Q. Where did you ever come in contact with him?
- A. In fixing my machine.
- Q. Any other place?

A. No.

Q. Did you ever talk with him?

A. Well, I might have said a word or two while he was at my machine. I know I told him it was all right when he fixed it and I tried it out.

Q. How did he happen to come to your machine?

A. There was something wrong with it.

Q. Do you know how he found that out?

A. I put in a call for someone to come and fix it and he would come.

Q. You put in a call?

A. Yes.

Q. And he responded?

A. That's right.

Q. Now, you read the minutes of the May 11 meeting this morning, did you not?

A. Yes.

Q. And you said you attended that meeting?

A. That's right.

Q. You read the minutes from beginning to end, did you?

[fol. 5772] A. I looked through them quite thoroughly.

Q. What was the answer?

A. I said I looked through them quite thoroughly.

Q. Did the minutes shown you, the minutes of May 11, 1937, correctly state what had been done at that meeting?

A. As near as I can remember, yes.

Q. And correctly stated what had been said at that meeting?

A. Yes.

By Mr. Langsdale:

Q. When you read those minutes through, when they were presented to you by Mr. Tyler or Mr. Lane, did you see anything that did not correctly state what was done or said?

A. Well, I couldn't remember, after all of these years, exactly every little detail that took place in the meeting.

Q. But they appeared to you to be correct, did they?

A. That's right.

Q. Did you attend the organization meeting?

A. You mean, when we formed our union?

Q. On April 27.

A. I. attended the meeting where we organized our union.

Q. That's what I mean.

A. That's right.

[fol. 5773] Q. Do you remember what occurred there at that meeting?

A. Well, we had had legal counsel and knew that we were within our rights to form our own organization.

Q. Well, I am going to show you the minutes of that meeting, Mrs. Freed, and ask you to read the first five pages of them.

Trial Examiner Batten: Is that 8-1?

Mr. Langsdale: 8-1, 2, 3, 4, and 5.

Trial Examiner Batten: Do you have the Circuit Court page number?

Mr. Langsdale: I haven't. Miss Weyand, will you find it?

Miss Weyand: 4395, through 4399.

(Thereupon the pages of the exhibit specified in the last question were read by the witness.)

By Mr. Langsdale:

Q. Mrs. Freed, you have read the first five pages, have you not, of the minutes of April 27, 1937?

A. That's right.

Q. And those pages contain a report of remarks made by Rose Todd and Mr. Tyler? A. Yes.

Q. Do they correctly report what Rose Todd said, as far as they go, and what Mr. Tyler said, as far as they go? A. As near as I remember, they do.

Q. You stated that this 50 cents that you contributed on [fol. 5774] the day after the meeting which you think was the latter part of March or the first of April you did not contribute to the Loyalty League? A. I did not.

Q. Did you know that the money was collected by a Miss Hartman, the treasurer of the Loyalty League?

A. No.

Q. Did you know the money was put in the First National Bank in an account of the Loyalty League?

A. I did not.

Q. Did you know the money was paid to the First National Bank on a note that had been signed by Rose Todd, president of the Loyalty League, upon which she had borrowed \$1,000? A. I did not.

Q. Now, before you went to the meeting on March 27 did you know what the meeting was for?

Mr. Lane: Did you say "March 27"?

Mr. Langedale: I didn't mean that. I meant April 27. That is, the organization meeting.

A. I knew Mr. Tyler was to be there to talk to us.

Q. Did you know it was a meeting at which there was to be a plant union formed, before you got there?

A. I don't recall now whether I did or not.

Q. You listened to the speeches of Rose Todd and Mr. Tyler, did you?

[fol. 5775] - A. I did.

Q. And you believed what they said? A. Yes.

Q. Did the speeches help you to make up your mind about wanting the plant union?

A. No. I had my mind made up.

Q. You didn't pay any attention to the speeches?

A. Yes, I paid attention to them. I listened very closely.

Q. You believed them, did you? A. Why, yes.

Q. You say Lena Tyhurst came into your section to inspect work?

A. She looked at the work as it would go through, at the quality and the workmanship of it.

Q. How frequently did she do that in your section?

A. I wouldn't know.

Q. Every day?

A. I wouldn't know that.

Q. You were there, weren't you?

A. I was there, but I'm busy. I don't see everyone who comes and goes.

Q. Did she inspect your work?

A. I don't recall any instance when she did.

Q. Not ever? A. I just don't remember.

[fol. 5776] Q. Do you know whose work she did inspect?

A. No, I don't.

Q. Can you tell us any occasion on which she came into the section to inspect anybody's work?

(No answer.)

Q. Do you know whether she came into the section on an average of once a day, once a week, or—

Trial Examiner Batten: Just a moment. Was the prior question answered?

Mr. Langsdale: Yes.

Trial Examiner Batten: Will you read the question?

(Thereupon the next to the last question was read by the reporter.)

Mr. Langsdale: The answer was "No."

Trial Examiner Batten: Did you have an answer to it, Miss Reporter?

The Reporter: No.

Trial Examiner Batten: I certainly didn't hear it.

Mr. Langsdale: Maybe I just caught the shake of her head. She did shake her head.

By Mr. Langsdale:

Q. Do you know how often she came into your section?

A. No, I couldn't say.

Q. Do you know whether it was as much as once a week, once a month, or—

[fol. 5777] A. I suppose she did. I had my work to do—

Q. I know, but—

Mr. Reed: Let her finish.

A. (Continuing) I have my work to do and I can't be watching what other people are doing.

Trial Examiner Batten: You don't know, Mrs. Freed?

A. No.

Trial Examiner Batten: Then, that is the answer.

By Mr. Langsdale:

Q. You saw Mrs. Gray down in what you call the store; is that right? A. That's right.

Q. And you saw her there on occasions when you went to make a purchase? A. Yes.

Q. Did she wait on you? A. She has, yes.

Q. Did you talk with her?

A. If I did, I might have said, "It's a nice day," or something like that, but I don't remember anything outside of that.

Q. You never asked her what her duties were, did you?

A. No.

Q. And she never told you? A. No.

Q. And no one else ever did?

[fol. 5778] A. Why, no.

Q. Now, you said you knew Ted Scoles and that he was in the cutting department. Did you ever see him in the cutting department? A. No.

Q. Did you ever talk to him about what his duties were?

A. No.

Q. Did you ever talk to anyone else about what his duties were?

A. I heard people say he was in the cutting department.

Q. Anything else? A. No.

Q. You just heard people say he was in the cutting department? A. Yes.

Q. And you never heard anybody say anything else about him? A. No.

Trial Examiner Batten: If you will just speak up, Mrs. Freed, please,—

The Witness: All right.

By Mr. Langsdale:

Q. Now, you said that Rose Todd was the chairman or president of the Loyalty League when you joined?

A. That's right.

Q. That was in 1936?

[fol. 5779] A. That's right.

Q. Did you go to any meetings of the Loyalty League presided over by Rose Todd?

A. I don't remember ever attending a Loyalty League meeting.

Q. How did you know she was president?

A. Well, when you join something you, naturally, ask who the officers are.

Q. Did you? A. Yes.

Q. Do you remember whom you asked?

A. No, I don't.

Q. Now, I think you said Thelma Huffaker succeeded Rose Todd? A. I did.

Q. How did you know that?

A. Well, you hear of the activities, whether you attend the meetings or not.

Q. Did you ever attend a meeting presided over by Thelma Huffaker? A. No.

Q. Do you know when she succeeded Rose Todd?

A. I do not.

[fol. 5780] By Mr. Langsdale:

Q. Do you remember when the auditorium was built there in that building in which the Donnelly Garment Workers' Union held its meetings? A. No.

Q. They did construct such an auditorium, did they not, or someone did?

A. Why, they had one down on the first floor where they held fashion shows.

Q. Well, was that before they formed the Donnelly Garment Workers' Union? A. I don't remember.

Q. Did the Donnelly Garment Workers' Union ever hold any meetings in that auditorium? You said something about the second floor.

A. We held our meetings on the second floor.

Q. Yes, and they never held any meetings in the auditorium? A. Not that I ever remember of.

Q. When you said that the Donnelly Garment Workers' Union was a self supporting organization, did you know that Mr. Tyler had been paid by check given by the Loyalty League, for drawing up by-laws and assisting with your working agreement?

Mr. Lane: That is objected to as assuming facts not in evidence, that is stating matters of fact not in evidence.

Mr. Reed: I would like—

Trial Examiner Batten: What is your objection, Senator?

[fol. 5781] Mr. Reed: I would like to hear the question.

Trial Examiner Batten: Will you read the question?

(Thereupon the last question was read by the reporter, as follows:

"Q. When you said that the Donnelly Garment Workers' Union was a self supporting organization, did you know that Mr. Tyler had been paid by check given by the Loyalty League, for drawing up by-laws and assisting with your working agreement?")

Mr. Reed: The first part of it is objected to as matter that has been gone over, the payment to Mr. Tyler; and the second objection is that it assumes as a fact that Mr. Tyler was employed and paid for drawing up by-laws and a working agreement. Now, there is no evidence to sustain that.

Trial Examiner Batten: Well, I'll overrule the objection.

The question is, does she know whether or not Mr. Tyler was paid for these two matters by the check from the Loyalty League.

A. No, I do not.

By Mr. Langsdale:

Q. Did you know on June 15, 1937, in one of the board's meetings, Rose Todd stated the following:

"Q. I understand people are saying we paid Mr. Tyler \$500 to organize our union.

"Rose Todd: A. As you know and as we have explained quite thoroughly, we paid Mr. Tyler \$500 retainer fee; he helped us write up our by-laws and working agreement [fol. 5782] and will advise us and help us when we need it."

Did you know that Rose Todd said that in the board meeting on the 15th of June, 1937?

Mr. Ingraham: I object to that for the reason that question is indefinite. We don't know what board meeting Mr. Langsdale is referring to.

Trial Examiner Batten: Well, it is apparently — you are referring to the exhibit there?

Mr. Langsdale: Yes, I am referring to Board's exhibit 9-23.

Trial Examiner Batten: And you read from it, is that it?

Mr. Langsdale: I read from it, and it is purported to be the minutes of the group chairmen of June 15, 1937.

Trial Examiner Batten: It seems to me that is clear enough.

Mr. Langsdale: Board's Exhibit 9-23.

Mr. Ingraham: I know, but Mr. Langsdale said "a board meeting."

Trial Examiner Batten: Well, it is a board of the Donnelly Garment Workers' Union, isn't it?

Mr. Ingraham: They never called it a board meeting.

Mr. Langsdale: I'll reframe the question.

By Mr. Langsdale:

Q. Did you know that at a meeting of the group chairmen on June 15, 1937, the following occurred, as shown by Board's Exhibit 9-23, "Q: I understand people are saying [fol. 5783] that we paid Mr. Tyler \$500 to organize our union.

A. Rose Todd: As you know and as we have explained quite thoroughly we paid Mr. Tyler \$500 retainer fee. He helped us write up our by-laws and working agreement, and advises us and helps us when we need it."

Did you know that Rose Todd had said that at the meeting of the group chairmen on June 15, 1937?

A. No, I wasn't on that committee and I wasn't there.

Q. You never heard it?

A. No.

Q. Did you know that that \$500 was paid to Mr. Tyler in a check signed "Rose Todd, President; Pauline Hartman, Treasurer of the Loyalty League," drawn on the First National Bank on the first day of April, 1937?

Mr. Lane: That is objected to as repetition.

Trial Examiner Batten: Well, it is all repetitious except the date, April 1.

Mr. Lane: Yes, I think he added that, but as far as the objection is concerned, it is repetitious.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Mr. Reed: That has been gone into, and it is objected to as repetition.

Trial Examiner Batten: Did you know that?

A. No, I did not.

[fol. 5784] Redirect Examination.

By Mr. Ingraham:

Q. Did you ever work in any department that Mrs. Strickland worked in?

A. No.

Q. Did you ever work on the ninth floor?

A. You mean during that period?

Q. Yes, during that period.

A. No.

[fol. 5785] Q. Now, prior to July, 1939, did you know that Mrs. Strickland had any authority to speak for the management?

A. I didn't know what Mrs. Strickland's duties were exactly.

By Mr. Ingraham:

Q. So, when you mentioned her name with Mrs. Reed and Mr. Baty, and so forth, you didn't know of any authority that Mrs. Strickland had to represent the management?

A. No, I did not.

Q. Did you ever see Mrs. Strickland giving any orders to anybody, directions?

A. No.

Q. Will you state whether or not you recall sometime [fol. 5785a] after the plant union was formed, signing an authorization to the company in connection with your union dues?

A. Well, I can't recall just right now whether I did during that period or not.

[fol. 5786] Mr. Ingraham: Mrs. Smith.

Trial Examiner Batten: I don't think we need to start with any other witness, Mr. Ingraham. I think I should advise all counsel that tomorrow morning at 9:30 I shall make my own ruling on various matters which are pending, and I would suggest that, Mr. Ingraham, you be prepared to proceed with Mrs. Reed; and Mr. Langsdale, will you [fol. 5787] have Miss Tobin here?

Mr. Langsdale: I don't know whether Miss Tobin can come or not.

Mr. Reed: Mr. Examiner, before you adjourn, I have a statement I want to make. An hour or two ago I was called out by word that my son, a boy of 11 years of age, is very sick in northern Michigan, and Mrs. Reed immediately rushed to a plane to go up and take care of him; so that is the reason I left the room; so Mrs. Reed cannot be here in the morning.

Trial Examiner Batten: Senator, I am glad you said that, because I have a mother that is perhaps in worse shape than your son.

But irrespective of that, I want you to be ready to proceed in the morning with some witnesses.

Mr. Reed: Yes.

Mr. Langsdale: He is just saying why Mrs. Reed can't be here.

Mr. Reed: Yes, I want you to understand why Mrs. Reed can't be here.

Trial Examiner Batten: Yes, I understand perfectly well, Senator Reed.

Mr. Langsdale: And do you want Miss Tobin here tomorrow morning?

Trial Examiner Batten: Yes, I think if you can have [fol. 5788] Miss Tobin here, you'd better have her here.

[fol. 5792] Trial Examiner Batten: The hearing will be in order. I think we are ready to proceed.

I think I indicated yesterday to counsel just before we adjourned that I had about come to the conclusion that I would have to assume the responsibility for determining to what further extent testimony will be received through employee witnesses.

And then, after the hearing adjourned, I indicated to counsel, I think rather clearly, so that we might have the night to think it over, that I was inclined to make a ruling that I would not receive any further testimony of employee witnesses. I think I indicated to Mr. Lane that I considered the intervener in the same category, except that I would give some consideration to whether or not I felt that perhaps some few additional witnesses might be presented by the intervener.

I think everyone certainly is familiar with the fact that at least for the last few days I have made some efforts and suggestions for some sort of an understanding or suggestions from counsel, believing that if counsel themselves could work out some plan, that that would perhaps be more satisfactory to all of the parties; and I think I also indicated that I was not doing that because I wanted to avoid the duty which I have of ruling upon these matters when [fol. 5793] they are presented to me.

I think, further, that it must be obvious to all of counsel that there are several reasons why the employee testimony at this point in the proceedings is cumulative and I think the record will indicate other reasons why some disposition of the matter must be made.

Now, it seems to me that the testimony of the employee witnesses at this point are purely cumulative as to why and how the Donnelly Garment Workers' Union was organized, and especially so when you consider the witnesses

which we heard in the prior hearing, all of which, of course, must be considered.

I think we all realized, too, that under the Circuit Court opinion the Court stated that the main and controlling issue is the formation and administration of the Donnelly Garment Workers' Union.

Now, before making a definite ruling on any of these matters, I want an expression of opinion from counsel. I think I have indicated pretty clearly how I feel about it at this point.

Now, Mr. Ingraham, what is the position of the respondent, that is, with respect to the employee witnesses?

Mr. Ingraham: Well, we are prepared to continue offering testimony of employee witnesses.

Trial Examiner Batten: To what extent?

[fol 5794] Mr. Ingraham: Well, until Your Honor —

Trial Examiner Batten: (Interrupting) Well, until I stop you, is that it?

Mr. Ingraham: Yes.

Trial Examiner Batten: Mr. Tyler, what is your position in the matter?

Mr. Tyler: The intervener will expect to offer witnesses unless the Examiner declares that it is useless to offer them; but we will consider that the witnesses that the respondent has offered apply on whatever is a reasonable number, so that what we offer will probably be less, and it will almost certainly be less in number, and it will depend largely on how many the respondent offers.

But how to determine what is a reasonable number, I can't declare and rule on, and I haven't made up my mind; and I don't know just how we will reach the decision of what is a reasonable cross section or a reasonable number.

Trial Examiner Batten: In other words, you can't give me any idea what your position is with respect to either numbers or amount, is that it?

Mr. Tyler: Roughly, the intervenor will expect to add some witnesses to those offered by the respondent. If the respondent offers a large number, we will expect to offer comparatively few; but I am unable to determine at this time, under the circumstances, what is a reasonable cross section.

[fol. 5795] Trial Examiner Batten: Of course, that is what I am trying to determine. I think you all understand what is a reasonable number or amount, and, of course, I would like to have counsel indicate if they have any idea of what is reasonable.

After all, you are the men who are going to have to handle this matter from the hearing on. You are the men who are going to present the matter to the Circuit Court and to the Board in oral argument.

Now, as I have said before, I am perfectly willing to assume the responsibility, but I would like some help on it if I could get it. And you feel that you couldn't indicate other than you have, is that it, Mr. Tyler?

Mr. Tyler: I feel that I can't indicate at this time. When the respondent has finished, in view of the length of time it has taken, and in view of the number of witnesses it has put on the stand, I think I can then make an estimate of how many I feel should be added from our standpoint; but before they finish, before I know how many they put on, before I know how long they take, I don't feel I should venture a statement as to how many the intervenor would ask to put on.

Trial Examiner Batten: Miss Weyand.

Miss Weyand: I quite agree with the Trial Examiner's view that enough witnesses have been heard to get a fair sampling of what is the view of the employee witnesses [fol. 5796] which the company has offered and what they have testified to. I think that further witnesses are unnecessary, especially when considered in connection with the number of witnesses whose testimony appeared in the record before we started the hearing on the remand.

Trial Examiner Batten: Mr. Langsdale, what is your position?

Mr. Langsdale: Well, it occurs to me that nothing could be added to the view of the respondent or the intervener either by witness after witness. I think they have put on 11 employee witnesses, didn't you, Bob?

Mr. Ingraham: I think so.

Mr. Langsdale: And the testimony of each one of them is about the same. Now, what can be gained by putting on 11 more or 100 more, or 200 more, I don't see. Of course, that is their problem.

We are ready to do whatever the Examiner thinks should be done, and we are ready to cooperate in any way we can. I mean by "we" the I. L. G. W. U. I think everybody should want to see that done, particularly when the kind and type of evidence is exhausted by a number of witnesses.

Whatever the Examiner thinks will be all right with us. We have no desire to put on a large number of witnesses unless they do; however, I can't see that to the trial of fact the number of witnesses is going to be the guide-post.

[fol. 5797] Now, as far as the International Ladies' Garment Workers' Union is concerned, if we should quit here we should have very few witnesses.

That is about all I care to say. We will do whatever the Examiner thinks should be done.

Trial Examiner Batten: Is there anything further?

Well, if not, I think I shall rule at this time that as far as the offers of proof are concerned, and the employee witnesses are concerned, with respect to the respondent, that I have heard sufficient; that anything further would be cumulative, and any addition wouldn't enable the Examiner or the Board or the Circuit Court to get any better picture of the entire situation, the light of the entire hearing, the entire record and exhibits.

Now, Mr. Tyler, with that ruling, what is the position of the intervener?

Mr. Tyler: Under that ruling the intervener will desire to present a reasonable number of witnesses. I don't feel that I could commit myself at this time to the exact num-

ber, and I should like to add this suggestion, I understand that last night you indicated that the intervenor wouldn't be expected to have its witnesses present today. Monday is Labor Day, and some of our witnesses I know are planning to leave town tonight and not be back until Tuesday morning.

I don't want to be in the position—I don't know how [fol. 5798] many—I don't know whether Your Honor, whether the Examiner expects to hold court Monday. If so, I should like to be able to telephone them this morning and see that some of them are here on Monday.

Trial Examiner Batten: Well, Mr. Tyler, there have been either 10 or 11 witnesses. Can you give me any sort of an idea of what you expect to call?

Mr. Tyler: How many we expect to call?

Trial Examiner Batten: Yes, to supplement the testimony which now—

Mr. Tyler: (Interrupting) I think that will depend somewhat on the length of time they are on the stand, how much time it takes.

Trial Examiner Batten: That won't have anything to do with the number, will it, Mr. Tyler?

Mr. Tyler: Yes; if a witness is on the stand a day at a time, I think it will take fewer witnesses than if they are on 15 minutes.

Trial Examiner Batten: Of course, you understand, Mr. Tyler, that as far as my ruling is concerned, I consider all of the matters which you and Mr. Lane have examined these witnesses on as cumulative also; in other words, the record will indicate clearly, of course, that you have examined them with respect to these matters which were in your offers of proof, and so forth, so you, of course, might [fol. 5799] feel it was your duty to cover those matters again.

But under my ruling I would not permit it, so that would, it seems to me, further reduce the time and amount, as far as you are concerned.

Mr. Tyler: It seems to me the only safe method is for the intervenor to proceed to put on witnesses, and when the Examiner says anything further will be cumulative, he stops them, and if he doesn't, when the intervenor feels we have now presented a further cross section, the intervenor should stop. I don't think I should be asked to state in advance how many witnesses the intervenor wants to put on.

Trial Examiner Batten: Mr. Tyler, I only asked you that because you stated in your first talk it would depend somewhat on the number the respondent presented, and, of course, your presentation would be a small percent of those.

Now, that was my only reason for asking you, because I don't believe, Mr. Tyler, that numbers is the important factor.

In other words, I am certain that if I have anything to do with a decision in this case, and I am certain if the Board writes an order, it is not going to base it upon the one who presented the questions or the largest number of witnesses.

Mr. Tyler: Well, in view of that statement, I think I can say to Your Honor that the intervenor will not be overlengthy; but I insist that the responsibility of determining [fol. 5800] when it is cumulative is still on the Examiner, unless the intervenor comes to the point when it feels: "Well, we think we have put on a fair cross section."

Trial Examiner Batten: Well, I feel, Mr. Tyler, if you want me to determine the question entirely myself, I take it that is in substance the same position which the respondent takes.

Then, I will now determine that I have heard enough employee witnesses, both as to the respondent and the intervenor.

So, that disposes of that matter.

Now, there are two or three other matters that I think I should dispose of with respect to Mrs. Reed. I am now striking out all of her testimony which pertains to the period subsequent to July, 1939, in accordance with a ruling which I made after Mrs. Reed testified.

Mr. Reed: All after July—

Trial Examiner Batten: (Interrupting) 1939, Senator. I think that is—let's see. I believe the respondent agreed with me on that point, not as to Mrs. Reed, but in general as to the period after July, 1939. I may be incorrect in that.

I believe Mr. Tyler took the position that all testimony, even down to date, is proper. I believe, Miss Weyand, the Board took the position that testimony subsequent to July, [fol. 5801] 1939, should be received, where it had any bearing on events prior to July, 1939. I believe, Mr. Langsdale, you took the position that you, as attorney for the International Ladies' Garment Workers, was ready and willing to proceed on the basis of taking testimony down to and including the date of the present hearing.

Now, I don't mean, by stating those matters, that I am attempting for one moment to correctly state your position. I am simply giving that purely from recollection.

Mr. Langsdale: That is correct as far as the International Ladies' Garment Workers' Union is concerned.

Trial Examiner Batten: So, any matters after that are stricken.

Now, unfortunately, as Senator Reed indicated, Mrs. Reed, of course, isn't here, unavoidably, and I want to say that I take the same position with respect to that that I did when Mrs. Reed testified in the first instance; that is, the last time we had the hearing, she was unavoidably out of the city for a good reason, and is at the present time.

I haven't changed my position one bit, which I made clear. I believe, the first day that Mrs. Reed testified, and that is that I was going to permit her to testify, not upon the basis of the offer of proof, but she is, I presume, the general manager and directing head of the company, and therefore I received her testimony in its entirety.

[fol. 5802] Now, some provision, of course, will have to be made of some kind for completing Mrs. Reed's testimony. As I understand it, all that is left is the redirect, is that correct, Mr. Ingraham?

Mr. Ingraham: That is correct.

Trial Examiner Batten: And, of course, the amount of examination by Mr. Tyler and Miss Weyand and Mr. Langsdale will be governed by the amount of redirect.

So it is impossible to tell what that may be.

Mr. Langsdale: May I ask a question of counsel here?

Trial Examiner Batten: Yes.

Mr. Langsdale: Do you expect to put her on at a later date in redirect?

Mr. Ingraham: Yes.

Trial Examiner Batten: Now, I think there is one other matter, the matter with respect to Wave Tobin. I believe at the time that matter came up Mr. Ingraham presented an offer of proof and a protest against the ruling of the Examiner, which I made on August 19, 1942, which is Board's Exhibit 1-SSSSS. Now, as far as the offer of proof is concerned, I have gone over Board's Exhibit 1-SSSSS, and I don't consider that there are any matters in there which are material in the hearing, and therefore I reject the offer of proof; and, furthermore—

[fol. 5803] Trial Examiner Batten: And furthermore, with respect to the testimony which Wave Tobin has thus far given, I have reviewed that, and I do not consider that it is material or relevant to the issues in this case and accordingly it is stricken.

Now, with these rulings I think, Mr. Ingraham, we are ready to proceed.

Mr. Reed: Respondent objects and excepts to all of the rulings just made by the Examiner, and to each of them separately. I presume that can be considered as a good objection as to all of them without my spreading them out and repeating the objection as to each paragraph.

Trial Examiner Batten: Well, I am certain, Senator, that that objection is good to them generally and specifically and separately and individually.

Mr. Reed: Yes.

Trial Examiner Batten: And, of course, in addition to your objection you are entitled to an automatic exception.

Mr. Tyler: The same is true as to the intervener; as I understand it.

Trial Examiner Batten: That's right, Mr. Tyler.

Mr. Langsdale: I believe I understood the Examiner to [fol. 5804] mean that when and if Mrs. Reed returns to Kansas City during the pendency of this hearing, she may testify on redirect?

Trial Examiner Batten: That's right. And if she doesn't return, if anything happens she is unavoidably detained, we will make very definite arrangements so that we may complete her testimony.

Mr. Reed: I am going to ask to have Mr. Langsdale's remarks and Your Honor's remarks in reply read, because I was talking, and I didn't hear what was said.

Trial Examiner Batten: Will you read them, please?

(Thereupon the remarks asked for by Senator Reed were read by the reporter, as follows:

"Mr. Langsdale: I believe I understood the Examiner to mean that when and if Mrs. Reed returns to Kansas City during the pendency of this hearing, she may testify on redirect?

"Trial Examiner Batten: That's right. And if she doesn't return, if anything happens she is unavoidably detained, we will make very definite arrangements so that we may complete her testimony.")

Mr. Reed: Thank you very much for that. I say to counsel perhaps there is a way we can avoid that. We will talk about that.

Miss Weyand: I would like to state an exception in the record to so much of the Trial Examiner's ruling as strikes such portions of Mrs. Reed's testimony pertaining to events [fol. 5805] subsequent to July, 1939, as are material to determining conditions in the plant prior to July 1939.

Mr. Reed: Now, Your Honor says for us to proceed, and I don't now know the course to pursue unless we know whether the evidence is to be strictly limited to matters that are set forth in the offers of proof by the proponents of those offers.

Trial Examiner Batten: Well, Senator, I think you have a pretty good idea of what you think the Circuit Court's opinion means. We discussed it on several occasions. I don't believe I shall attempt to make any ruling in advance.

[fol. 5806] Mr. Reed: I want to be understood. Your Honor has held us strictly to our offers of proof, and, as I understand, they have been to the effect that no evidence is to be offered except by the party who has made offers of proof; and then to offer the evidence within the limits — evidence within the limits of that offer, am I correct about that?

Trial Examiner Batten: I don't believe that that is quite correct, Senator, although if you can indicate to me, or if you desire to, whether you have any other evidence to present, and if so, what it is, I think I would then be able to indicate to you what my position would be. Let me say this, Senator, before we go any further, so there will not be any misunderstanding about the position in which this leave the Board and the International Ladies' Garment Workers' Union, and as far as the hearing to this point is concerned, which I think perhaps you would like to know. Any evidence which they present, and I am going to make the same request that I have previously made — that they jointly present those matters wherever possible — their testimony will be limited strictly to rebuttal.

Now, you may wonder why I say rebuttal; I say rebuttal because my idea of the situation to this point is this: I have received certain testimony which the Circuit Court of Appeals feel I should receive in accordance with certain offers of proof. Now, had I received that testimony at the [fol. 5807] original hearing, the Board then would have been, and the Ladies' Garment Workers' Union would have been in the position of a party presenting rebuttal; and I don't assume that this further hearing, in substance, changes the position of the parties.

So, I thought I ought to let you all know that I considered and will follow that rule, that it will be rebuttal, and I think I stated in the prior hearing that when I stated rebuttal, I meant rebuttal.

Now, Senator, I think I interrupted you.

Mr. Reed: Well, in view of the ruling, limiting the number of witnesses that can be produced either by the respondent or by the intervener, it is very important whether or not the prosecution is to be allowed now to go into this case and undertake, by an equal number of witnesses, or by some other means, to try to balance the testimony which they offer. Now, if we are denied the privilege of going on because we were limited to the offer of proof, as they have no offer of proof, I don't think they are entitled to put a witness on.

Trial Examiner Batten: Well, Senator, I simply indicated my position to you because I thought I should, with respect to rebuttal. I think I covered it thoroughly when I said rebuttal, not rebuttal of all the issues in the case, not rebuttal of matters which were in the prior hearing, but [fol. 5808]. rebuttal of matters presented here.

I think I have previously stated that numbers aren't the important factor. I don't believe any of you people, as lawyers, would attempt for one moment to balance any matter of testimony by counting up the numbers of witnesses; now, that would be just absurd.

I strongly emphasized the fact which, of course, doesn't show in the record, that when I said rebuttal, I mean rebuttal, so there shouldn't be any misunderstanding.

Mr. Reed: I still — and I don't want to be importunate about this.

Trial Examiner Batten: No.

Mr. Reed: Under the indicated ruling, since we on our part have introduced evidence which covers the whole field of organization and proceedings, if you call it rebuttal, or whatever you call it, they would be entitled under that ruling to go into all of the evidence which they think refutes, and therefore the whole field is open to them.

Trial Examiner Batten: Well, Senator, I would say this: that is a very definite possibility. If I were to accept your idea of it, I think I would apply the same rule which I indicated a moment ago, that when I take into consideration the testimony in this hearing, which is roughly now the same number of pages at this point as was received in the prior hearing, I, of course, would consider the [fol. 5809] witnesses in the prior hearing. The fact is that all of the parties at this time, in my opinion, had a full opportunity, except with respect to the matters which the Circuit Court sent the case back for; therefore, I would consider that the Board and the International Ladies' Garment Workers' Union must come within that same rule, within that same idea.

Now, I don't know whether I make myself clear to you or not, Senator.

Mr. Reed: Then, if I catch your view, they would be limited on the other side here on putting on evidence to rebut new matter that we have brought into the case now, and if they had gone into those questions before, they wouldn't be entitled to come in now and produce witnesses in rebuttal.

Trial Examiner Batten: Well, I think, generally speaking, I could agree with that except for this, that of course, I would feel, Senator, that there had been extremely few, if any, new matters presented, when you consider the other record. Do you understand what I mean? I don't know as I understand exactly your use of the word "new." Now, do you mean —

Mr. Reed: (Interrupting) Something additional, that was not in before; that is to say, to try to illustrate, if I may try to, suppose the prosecution produces evidence to sustain their charges, that is their case. We undertook to answer it, and Your Honor excluded certain evidence. Now, you have merely received that evidence.

[fol. 5810] Trial Examiner Batten: That's right.

Mr. Reed: Which then would mean that the prosecution would not be entitled to rebut that evidence unless that evidence brings into the case some new matter, some matter

that was not touched on in the previous hearing of this case.

Trial Examiner Batten: Well, Senator, I don't believe I could go with you that far. All I can say is that it would be my purpose to very definitely and strictly confine them to what I consider to be rebuttal testimony. We have received in this further hearing — and that doesn't mean that it opens up all of the issues in the case, and neither does it open up all the matters that are in the case to this point — now, I simply told you that at this point, Senator, because I wanted you to know what I had in mind with respect to that matter.

Now, that, of course, depends to some extent on what further testimony, if any, is received from the respondent and the intervenor.

Now, that might open up matters which haven't thus far been opened up, I don't know. I mean, that is a conjecture, so I wouldn't want to say, Senator, except that they will be confined strictly to rebuttal, it will be strictly applied as far as any testimony which is offered.

Mr. Langsdale: What about Mrs. Reed's testimony, [fol. 5811] which didn't follow the offers of proof? Should we be permitted to answer that?

Trial Examiner Batten: Well, Mr. Langsdale, that depends largely on what you mean by "answer".

Mr. Langsdale: Well, I understand your distinction between answer and rebuttal. As I understand it, we put on our case and the Board put on its case in the former hearing, the respondent and intervenor came along and offered certain testimony which you refused. Now, had you received it then, we would have been entitled to rebut it.

Now then, you are receiving it.

Trial Examiner Batten: That's right.

Mr. Langsdale: And you now say we have the opportunity to rebut it as we would have had if it had been received in the first instance.

Trial Examiner Batten: Let me say this: you are in no worse position now.

Mr. Langsdale: Than we would have been then.

Trial Examiner Batten: So far as Mrs. Reed's testimony is concerned, it is the same at this point as if it had been given at that time. In other words, your only opportunity, as I understand it, is rebuttal, which is rebuttal. I want to emphasize that because, for some unknown reason, in many of these hearings — at least it has been my experience — attorneys apparently don't seem to understand the word "rebuttal". Now, I am sure all of you men do, and far be it from me to indicate to any of you, all of whom have a much wider knowledge of those matters than I do.

Mr. Langsdale: Of course, the respondent's and intervener's testimony is in the nature of an answer to the Board's testimony.

Trial Examiner Batten: That's right.

Mr. Langsdale: Now then, if there is anything new brought out, we have an opportunity to rebut it.

Trial Examiner Batten: That's right.

Mr. Langsdale: But Mrs. Reed's testimony is in the same category, however, she was not confined to the offers of proof. I think the Board and the International Ladies' Garment Workers' Union, if that evidence is going to stand, should have the opportunity to reply to it in the same manner that we would have replied to it, had she been to the former hearing.

Trial Examiner Batten: I agree with you, and you apparently agree with Senator Reed, in principle, because you say anything "new".

Mr. Langsdale: Well, I think this: If the State puts on evidence that a certain man committed a murder, I say "yes, he did," and all the defendant says is "no," he didn't; well, there is nothing to rebut, is there? But if he says, "I was out at 58th and Holmes Street," and establishes an alibi in his answer to the State's charge, then that brings something in which the State has a right to rebut. But if it is just "no" against "yes—"

Trial Examiner Batten: Well, I don't intend to rule on it in advance: All I can tell you is, as I said before, as

far as I am concerned I don't care to discuss it any further, that anything you present, as far as the Board and the International Ladies' Garment Workers' Union is concerned, will be rebuttal, and I mean rebuttal.

Now, that is all I can say.

Mr. Langsdale: What I want to know is what you mean by rebuttal. Is it a reply to what they have put on, isn't that rebuttal?

Trial Examiner Batten: Well, Mr. Langsdale, would you mean by that, supposing I were to say "yes," you mean then you would reply to everything?

Mr. Langsdale: Oh, no.

Trial Examiner Batten: Well, then, you can see how futile it is to set those lines into a discussion.

Mr. Reed: If you will pardon me, and you have been very indulgent, and if Mr. Tyler will pardon me, I want to just say this one thing: I understand the record in the whole case being that the prosecution put in its case, the respondent put in evidence of witnesses, a number of them, that covered the same matter, or substantially the same [fol. 5814] matter, that was introduced through the mouths of witnesses here, so that issue was there, and the opportunity was given to the prosecution to answer it by witnesses, to rebut it at that time.

Now, the only change in the situation is that under the order of the Court you have admitted the same character of evidence here, but more of it, so I think that they are limited to a rebuttal of those things that are brought in here, if any, that weren't touched upon in the former hearing.

Trial Examiner Batten: Mr. Tyler.

Mr. Tyler: The intervener understands that this hearing is a continuance of the hearing held in 1939, and that what occurred in that hearing may be considered in connection with this evidence, and that offers of proof made in 1939 are still active, valid offers of proof at this time.

But in order to avoid any mistake of my own, on that part, the intervener here and now renews all of the offers of proof which it made in the 1939 hearing.

Trial Examiner Batten: Well, of course, I consider, Mr. Tyler, that that would be unnecessary, although if you want to provide for it, you may do so, and you have.

Mr. Tyler: I agree with Your Honor that this is merely a precaution in case I am wrong in my understanding.

Trial Examiner Batten: In other words, I assume that all of these people who were named in these offers of proof, I have again rejected the offers insofar as those [fol. 5815] names are on the list and haven't testified.

Mr. Reed: We desire on behalf of the respondent to adopt or to make the same offers of proof that we have made before in the trial of the case. I think they are in the case anyway, but I desire to leave no doubt.

Trial Examiner Batten: Well, that's all right.

Mr. Reed: Now, Your Honor said for us to proceed. We would now like to recall Wave Tobin, we haven't finished her examination.

Trial Examiner Batten: Well, I think, Senator, I disposed of that matter by my ruling on the offer of proof, and so forth.

Mr. Reed: Very well. Now, we expected, as you undoubtedly know, to take the rest of the day in putting on witnesses. Our witnesses aren't here.

Trial Examiner Batten: Well, I think I told Mr. Ingraham last night, Senator: In other words, you weren't up here, but I wanted to let all counsel know what I had in mind, so that you wouldn't be inconvenienced by bringing them down here, and I think I told Mr. Ingraham.

Mr. Ingraham: Yes.

Trial Examiner Batten: That I felt it would be unwise to bring these people out of the plant down here again this morning. So, I will take the blame for those people not being here.

[fol. 5816] Mr. Reed: We thought Wave Tobin would be here, and we expected to spend considerable time with her examination; and you have ruled on the offer of proof which we made, and I would like to have some time to prepare—it was an oral offer made in the heat of the trial, a

formal offer of proof. It seems to me that under the circumstances the wise thing to do is to adjourn this hearing over until Tuesday morning, and in the meantime we can all be prepared, in the light of these rulings, to proceed, if there is anything further to proceed on.

Mr. Langsdale: I understand there has been a written offer of proof presented to the Examiner as to Wave Tobin's testimony. I haven't received a copy of that.

Trial Examiner Batten: That's right. It is Board's 1-SSSSS.

Trial Examiner Batten: As far as the Senator's request is concerned, if he wants to present another offer of proof with regard to Wave Tobin, I will receive it.

Mr. Reed: Of course, in explanation of the situation, while you made a preliminary statement or tentative statement last night to counsel, we had no very definite idea of what your ruling might be this morning, and I say, with all respect in the world that I am still in the nebulous belt [fol. 5817] as to just what Your Honor means. I would like to have some time to consider this matter, and see what we can do. Perhaps we can close this case very speedily unless the other side wants to put on witnesses.

[fol. 5821] Mr. Ingraham: I want to make this statement:

In preparing the respondent's offer of proof at the last hearing—I believe it is Board's exhibit No. 1-0000—I inadvertently included the name of Ella Mae Hyde. She testified in the N. R. A. hearing and I intended to offer her testimony from that hearing. She was one of the company's principal witnesses. But through some sort of misunderstanding her testimony was not offered, and the stenographers in preparing this exhibit, this offer of proof, included her name. I did not intend to include her name in the offer of proof and I would like to withdraw her name. It was done by mistake.

Trial Examiner Batten: Is there any objection to that?

Miss Weyand: I object to the withdrawal. The Board, [fol. 5822] of course, in its last decision used that as an admission against interest and believed it was put there with full knowledge of the facts. I do not think it should be withdrawn at this time.

Mr. Ingraham: If the Examiner will recall, Mrs. Hyde testified, and I stated at the beginning of the hearing, that she was one of the supervisory employees. She was on the stand. And all of us assumed that there wasn't any question but what she was not a member of the union. She never has been a member.

Now, if there is any question about this, I would like to call Mrs. Hyde and have her testify that she was not a member of the union and never had been.

Mr. Langsdale: I don't think there is any doubt about that being the fact.

Mr. Reed: What's that?

Mr. Langsdale: Ella Mae Hyde was never thought by the International Ladies' Garment Workers' to be a member of the plant union, and it was never so claimed. It was always understood by our union that she was the supervisory agent.

Trial Examiner Batten: I think it was a matter of general understanding that she was not a member of the union.

Mr. Langsdale: As to the motion to withdraw, I will not take any part in that. But I will state, for the integrity of [fol. 5823] the record, it was never claimed by anybody that Ella Mae Hyde was a member of the union.

Trial Examiner Batten: I will dispose of the matter at our next session, but it will not be necessary for you to have her here. In other words, I am not going to get into any collateral matter of that sort.

Mr. Ingraham, have you folks had any further discussion since this morning by which you can enlighten me in any way on any matters?

Mr. Ingraham: I believe that the only additional evidence that we expect to offer will probably be offers of proof.

Mr. Reed: In view of the rulings.

Mr. Ingraham: In view of the rulings this morning, yes.

Trial Examiner Batten: Well, not that I am accepting it or feeling that you are bound by your statement, all I can say now is, of course, that the Board and the Ladies' Garment Workers' Union should be ready to proceed at our next session.

Now, in saying that, as I just stated, Mr. Ingraham, I do not mean that you are bound by that.

Mr. Ingraham: I think that is correct, that they had better be prepared.

Mr. Langsdale: There may be some of the offers of [fol. 5824] proof which the Examiner will not reject.

Trial Examiner Batten: Well, let's not cross that bridge until we get to it.

[fol. 5829] Trial Examiner Batten: The hearing will be in order. I think we are ready to proceed.

Mr. Stottle has given me four offers of proof. I assume, Mr. Stottle, you had better have the originals and one copy marked by the reporter. Let's see; I think we made the offers of proof part of Board's Exhibit 1.

(Thereupon documents above referred to were marked as "Board's Exhibits Nos. 1-TTTTTT, 1-UUUUU, 1-VVVVV and 1-WWWWW," for identification.)

Trial Examiner Batten: With respect to these offers of proof, Mr. Ingraham, I notice one is marked "Supplemental offer" and the other just "Offer of proof." Does that indicate the one, 1-TTTTTT, supplemental offer of proof, supplements what?

Mr. Ingraham: Supplements the offer that we made at the time that Wave Tobin, her testimony was stopped.

Trial Examiner Batten: Well, then, you mean that to be supplemental of Board's Exhibit 1-SSSSS, is that right?

Mr. Ingraham: Yes; that is right.

Trial Examiner Batten: Now, the other offers of proof, are they, Mr. Ingraham, new matters, or are they matters that are covered in prior offers of proof, or what is the [fol. 5830] status of those?

Mr. Ingraham: They are in connection with the same testimony that we were offering to prove by Wave Tobin, except, I believe, one—the offer of proof of 1-UUUUU and 1-WWWWW are offers that are in line with the testimony that you said you would not receive in connection with Wave Tobin.

Trial Examiner Batten: So, then, the Wave Tobin testimony and the 1-WWWWW and the 1-UUUUU all pertain to the matter of showing the International Ladies' Garment Workers' contracts, and the matters indicated in the offers of proof?

Mr. Ingraham: That is correct.

Trial Examiner Batten: That would be 1-SSSSS, 1-TTTTT, 1-UUUUU, and 1-WWWWW, is that right?

Mr. Ingraham: That is correct.

Trial Examiner Batten: Now, 1-VVVVV, what is that?

Mr. Ingraham: That offers to prove the charges that were being made by the I. L. G. W. U. prior to the effective date of the Wagner Act.

Trial Examiner Batten: In other words, that refers to—

Mr. Ingraham: (Interrupting) N. R. A.

Trial Examiner Batten: The so-called background that we have discussed in this hearing before?

Mr. Ingraham: Yes.

Trial Examiner Batten: And this offer of proof, to prove, is, in fact then, supplemental to the parts of the [fol. 5831] record which were offered by the various parties in the original hearing, is that it?

Mr. Ingraham: That's correct. I would like to say this: I believe in the offers that were made at the previous hearing on behalf of the employees, and you have received the

testimony of certain of those employees, of course, at this time there is probably—oh, a hundred to 150 of those employees that no longer are employed by the company, but we were still offering to prove by those employees, the matters set out in the offers of proof.

Trial Examiner Batten: Of course, I don't presume, Mr. Ingraham, the fact they don't happen to be with the company now would have any effect upon the offer of proof.

Mr. Ingraham: No.

Trial Examiner Batten: Now, Mr. Tyler.

Mr. Tyler: I think the stenographer didn't catch my statement a few moments ago. I have an offer of proof in preparation, which will be here in the course of 1 hour or less, I think in half an hour, the substance of which is an offer to prove the successful operation of the Donnelly Garment Workers' Union since July 15, 1939. I wish to file it when it gets here, it won't be long delayed.

I also wish to make sure that the exhibits which were rejected in the 1939 hearing, which were made as offers of proof, and in case there was any exception, I now offer the [fol. 5832] rejected exhibits in the 1939 hearing as offers of proof.

Trial Examiner Batten: What rejected exhibits, Mr. Tyler; I don't understand.

Mr. Tyler: The ones the intervener offered, including 20-A to 20-KK.

Mr. Stottle: Mr. Examiner, respondent also wants to reoffer rejected respondent's exhibit No. 2, which was rejected in the former hearing, and which is several of the contracts made between the International Ladies' Garment Workers' Union and certain garment companies in the Kansas City area.

And we offer—want to reoffer, offer or reoffer, intervener's exhibit 20, which is contained in the supplemental certificate of the Board in the Circuit Court of Appeals record at pages 6056 to 6094 inclusive.

[fol. 5833] Mr. Stottle: I might say that respondent's exhibit No. 2, which has just been reoffered, appears in the supplemental certificate of the Board at pages 5991 to 6014 inclusive.

We also want to offer in evidence the judgment, findings of fact and conclusions of law of Judge Miller in the injunction suit which has been previously referred to in the pleadings and evidence.

(Thereupon the document above referred to was marked as "Respondent's Exhibit No. 43," for identification.)

[fol. 5835] Mr. Ingraham: Mr. Examiner, if you recall, you stated, I believe, that arrangements would be made to take Mrs. Reed's testimony, if necessary. Well, after court adjourned, Mr. Reed spoke to Mr. Langsdale and Miss Weyand, about the possibility of agreeing on what Mrs. Reed would say, and if I recall right, they said that if the Senator would prepare what he had in mind—he thought there was just several points—they would consider whether or not they could agree to it. We have been checking her testimony, and haven't completed it yet.

Now, we are prepared to close, subject to that, to either bringing Mrs. Reed in or agreeing with all parties that she would testify about certain matters.

Trial Examiner Batten: Well, how long do you think it would take you to go over those matters and determine?

Mr. Ingraham: Well, if we have time—

Mr. Hogsett: (Interrupting) A couple of days, 48 hours, something like that.

[fol. 5836] Trial Examiner Batten: Well, I think that would be all right. I think I said that we would make proper arrangements for Mrs. Reed's testimony. Is that satisfactory to other counsel?

Mr. Langsdale: I didn't hear the last remark.

Mr. Hogsett: Senator Reed can complete his examination of the testimony of Mrs. Reed with a view to such a statement as Mr. Ingraham referred to, within 48 hours.

Mr. Langsdale: My recollection was Mr. Ingraham had just two matters in mind when he talked to me and Miss Weyand, and one was with reference to a date she had given in 1935, and the other was in reference to the Wage and Hour exhibits that were offered.

Will you read what I have just said?

(Thereupon the statement asked for by Mr. Langsdale was read by the reporter.)

Mr. Ingraham: That's correct, and we are just checking through her testimony to see if there would be anything else.

Mr. Langsdale: Of course; I personally will not be willing unless the Examiner tells me to do so.

Trial Examiner Batter.: I was going to suggest this, that we recess until 2 o'clock and you attorneys get together and see if you can settle this matter.

Mr. Langsdale: Now, the Senator says that is not contemplated, and I assume what you originally stated will be [fol. 5837] also true, and we ought to agree on that very easily.

Here is some thing I want to say before we close, at the end of the testimony of Mrs. Reed, when the Examiner announced that he was going to not permit any more witnesses to be put on by the respondent or the intervener, for the reason that he believed it would be cumulative; I asked Mr. Ingraham if he had any one witness, who, in his mind, is any more important to his case that would testify to anything materially different from what the 11 would testify to, and my recollection is he said "no." I told him I would join in urging the Examiner to permit him to put on any such witness if he had one. Is that correct, Mr. Ingraham?

Mr. Ingraham: Yes, you said that to me. I said, "no," Clif: I hadn't checked the testimony of each of these witnesses. I think I joked about it, I think these witnesses are very strong witnesses. Have you anything in mind in particular?

Mr. Langsdale: No. I thought you might have been caught napping with one witness you were holding back,

and if you wanted to put that one witness on I would urge the Examiner to permit you to put them on, and you told me "no."

Mr. Reed: Well, we were holding back a multitude of witnesses and we were prepared to put them on. When I say a multitude I mean at least a hundred.

Trial Examiner Batten: Then, I gather there was no particular one which was outstanding, as Mr. Langsdale [fol. 5838] has suggested.

Mr. Ingraham: Well, there were certain witnesses, for instance, that might add something; for instance, witnesses that worked in May Fike's section. However, you limited the testimony and we stopped. The witnesses, in general, would testify as to what these other witnesses so testified.

Mr. Langsdale: I would like to know if Mr. Tyler has any one witness or two witnesses that he deems more important than any of those who took the stand, on any particular point, or generally.

Mr. Tyler: In view of the Examiner's ruling as to hearing no more testimony from the employees, and no testimony as to the operation of the Donnelly Garment Workers' Union since July 15, 1939, I would say that the intervenor has no star witness.

We do not say that we have one witness who would combine all or substantially all of the knowledge about the situation. We have a substantial number of both employees and ex-employees; and I would say no one of them or no two or three of them are any outstanding witnesses in importance as compared to the others.

Trial Examiner Batten: Well, in view of my ruling, Mr. Tyler, have you anything further?

Mr. Tyler: Nothing more, in view of your ruling.

Trial Examiner Batten: Then, am I correct in asking if [fol. 5839] the respondent and intervenor rest, taking their exceptions of my rulings? Is that correct?

Mr. Ingraham: That is correct.

Trial Examiner Batten: Now, as to the offers of proof which have been made this morning, Board's exhibits 1-TTTT to 1-WWWWW inclusive, I will reserve my decision on those and I will reserve my decision on Mr. Stottle's offer of respondent's exhibit No. 2, intervenor's exhibit No. 20, and the Judge Miller findings, which I believe were marked respondent's exhibit No. 43.

[fol. 5840] Trial Examiner Batten: Miss Weyand, are you ready to proceed?

Miss Weyand: I am, but before proceeding I would like to ask about the statement that Mr. Ingraham undertook to prepare of the matters in which the firm of, which Mr. Tyler is a partner, represented the Donnelly Garment Company, or Mrs. Reed. As the record now stands—I have checked it recently—Mr. Ingraham undertook to prepare such a statement and to submit it to the Trial Examiner, and the Trial Examiner was to say whether or not there was anything in the statement material to the case.

Mr. Ingraham: Well, I'll have that at 2 o'clock.

[fol. 5841] ETTA DORSEY, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

By Miss Weyand:

Q. Will you please state your name?

A. Etta Dorsey.

Q. Where do you reside? A. 3919 Troost.

Q. When did you begin to work at the Donnelly Garment Company? A. October, '25.

Q. Are you still working there? A. I am not.

Q. When you first went to work for the Donnelly Garment Company, what did you do?

A. I was an embroidery machine operator.

Q. How long did you continue to do that work?

A. About two years.

Q. What did you do next?

A. I was an instructor, for the same work.

Q. Were you continuously an instructor from 1927 to July 15, 1939?

[fol. 5842] A. I was.

Q. Do you know Ruby Clayton? A. Yes, I do.

Q. Did she ever work in your section?

A. Yes, she did.

Q. Did you know Ethel Riegel?

A. Yes, I do.

Q. Did she ever work in your section?

A. She has.

Q. Do you know Mary Warth? A. Yes, I do.

Q. Has she ever worked in your section?

A. Yes, she has.

Q. Do you know Oma Lee Cooper? A. Yes, I do.

Q. Has she ever worked in your section?

A. Yes, she has.

Q. Do you know Edith Dean? A. Yes, I do.

Q. Did she ever work in your section?

A. Yes, she did.

Q. Do you know Lydia Phillips?

A. Yes, I do.

Q. Did she ever work in your section?

A. Yes, she has.

[fol. 5843] Q. What section were you instructor of in March and April, 1937? A. 415.

Q. On what floor was that section located?

A. The eighth floor.

Q. What kind of work was done in that section?

A. Well, we had different machines, hemstitching—that section was changed around quite a lot, but I instructed hemstitching and zigzagging and eyelets and pink-ing and blind stitching, embroidery.

Q. And that is all the machines? A. I think so.

Q. Where on the floor was that section located at that time? A. Where on the floor?

Q. Yes.

A. Right in front as you come into the door at the entrance.

Mr. Reed: What was the number of that section?

Mr. Langsdale: 415.

By Miss Weyand:

Q. And that is at the north end of the building, is that correct?

A. That's right.

Q. And it consisted of rows of machines stretching east and west across the north end of the building, is that correct? A. Yes.

Q. Did you attend the meeting at which the Donnelly [fol. 5844] Garment Workers' Union was organized?

A. Yes, I did.

Q. Did you know before you got to that meeting that such a union was going to be formed?

A. Well, I don't know, but we sort of surmised something.

Q. How did you learn of that meeting?

Mr. Ingraham: I object to that. It is not proper rebuttal.

Miss Weyand: This is a preliminary question.

Trial Examiner Batten: Well, if it is preliminary, she may answer.

A. No, that's all right. Well, I don't remember, but it was either by telephone or by Mrs. Wherry telling us; she usually went around and told the instructors.

Mr. Ingraham: Now, I move that the answer be stricken out; it is not a preliminary question, it is an attempt to prove the Board's case in chief, not proper rebuttal.

Trial Examiner Batten: Well, I'll determine whether it is preliminary. You may proceed.

Miss Weyand: Do you know how the girls working in [fol. 5845] your section learned of the meeting?

Mr. Ingraham: I object to that question as not proper rebuttal.

Miss Weyand: I insist it is proper rebuttal, because four girls were called as witnesses by the company and said they were working in section 415 at that time. I think

the witness's answer will rebut their testimony as to the manner in which they learned of the meeting.

Mr. Reed: That will not rebut, the way they learned of the meetings. It just shows how this lady learned of the meeting; and Your Honor said rebuttal—when you ordered the close of our case you said that this evidence on rebuttal would have to be actual rebuttal, and repeated it several times.

Trial Examiner Batten: Yes, and I still say that when it is rebuttal I mean rebuttal.

Mr. Reed: Yes. Now, we object to this as not rebuttal.

Mr. Langsdale: It certainly is rebuttal, to have this witness, as instructor of those girls, who said they weren't notified by their instructor, to say, if she will, that she notified them; and they all said that.

Mr. Ingraham: That was the Board's case in chief, and they put on May Fike, and she testified the instructor notified her, that that was the way they were notified of the meetings. Now, they try to come in on rebuttal and bolster up the Board's case in chief by this type of testimony, and [fol. 5846] it is their case in chief to prove the instructor notified the girls of the meetings and asked them to go; therefore that was their charge.

Mr. Langsdale: Well, there was nothing in the ruling in the first case to prevent them putting on all they had to the contrary on that, but they did come here with a number of witnesses, this time, and have them testify in direct examination that they were not notified by the instructor. Now, if that was a part of the Board's case in chief, it was part of their defense in chief, and there is no ruling against that.

Trial Examiner Batten: Of course, I think I agree with Mr. Ingraham thus far, that if this lady were an instructor in some other section or was not here to testify with respect to those people who have here actually testified about how they were notified, that I would reject the testimony, but under these circumstances, I think it is rebuttal, because these certain named people testified here.

Why wouldn't it be, as to this instructor, without reference to other people, Mr. Ingraham?

Mr. Ingraham: This evidence was evidence that the Board offered in their case in chief; that instructors were supervisory employees; that was the position they took, and that instructors ordered the girls to go to meetings.

Now, they put on witnesses to that effect. Now, they come in and attempt to put on additional testimony to [fol. 5847] prove the same thing. I don't think that that is rebuttal.

Trial Examiner Batten: No; I think I can distinguish, Mr. Ingraham, between putting on testimony, general testimony, without reference to particular individuals who have testified here. Now, isn't there a difference there.

Mr. Ingraham: I don't see that there is a difference. If it was the Board's case in chief, to prove that instructors did certain things, then I don't see that it makes any difference to prove that an instructor did it with a particular girl.

Mr. Reed: The matter presents itself to me in this way, the Board undertook to establish its case and one of the elements that it undertook to establish was that the instructors sent its employees to the meetings. Now, they should have put in all their case on that. We sought to meet that evidence and it was excluded.

Now, we come in and seek to meet it, have sought to meet it, and we think have met it. Now, they come in and say, "Since you have met our testimony, we are going to introduce subject matter which was a part of our case in chief, and call it rebuttal."

Trial Examiner Batten: Well, Senator, don't you distinguish either between testimony, for instance, of this witness, with respect to specific statements that several of these witnesses made and the testimony of an instructor or other person that is general in nature?

[fol. 5848] Mr. Reed: If a witness made a statement here that she was not sent to a meeting by her instructor and this witness's testimony was to be limited to that particular thing, to show that that did not occur, that might be called rebuttal of that testimony, but it is plain that there is an attempt to open the doors now and put on wit-

nesses to deny everything that was testified to in the defense and call it rebuttal.

Trial Examiner Batten: Well, all I can say is, Senator, I am going to require that Miss Weyand confine it to rebuttal. I further want to say that this undoubtedly is preliminary in nature. Now, if this lady, who was there at the time, is in position to testify concerning these definite things which these people testified to, I think it is rebuttal.

Now, I have no idea, and will say so now, of permitting Miss Weyand or Mr. Langsdale to go into this entire subject matter in any form of fashion, and it is confined to rebuttal.

Mr. Tyler: If the Examiner please, the intervener wishes to suggest that mere contradiction is not rebuttal. The Board had the burden of putting on all the evidence it had as to the people being forced or intimidated into going to or attending meetings, in its case in chief. The respondent and intervener had the opportunity to answer that, and some day somebody will weigh the comparative weight of the evidence; but merely for the Board to undertake to contradict the evidence which the respondent placed is not proper rebuttal.

[fol. 5849] The contradiction is already made by the people who said it was not true. Their rebuttal should be limited to some subject which they had no opportunity properly to present in their original case, because it was brought up as something new by the respondent. Now, this is nothing now but just repetition of "I say it did," and "I say it didn't."

It is just merely a contradiction which I say isn't rebuttal at all.

Mr. Reed: I think this is a pretty good test. If you will indulge me a moment. Will not this lady's testimony, which she starts to give here, have been proper testimony to give by the prosecution on the first trial?

Plainly it would be, and therefore it cannot be called rebuttal, because we have some testimony to the contrary. They had the full right to call in that hearing this lady, and if she had testified, as she evidently is, and if she should have testified as she evidently is now, then that was

part of their case in chief and they should have put it on and we should have had an opportunity at that time to put on our evidence in denial.

Now, we were cut off from that right by the ruling, and we have now been, under the Court of Appeals' decision, accorded the right to put on some of our witnesses showing our side of this case. Then comes the prosecution and proposes now to put in a lot of evidence that was proper for them to have put in in the trial of the first case.

[fol: 5850] So that is not rebuttal, it is a continuance of their evidence, brought here by the prosecution under the pretext that they have a right to bring it in because we put in some evidence to the contrary.

Mr. Hogsett: May I suggest a thought? Everything the respondent has proven in a month or more of hearing has denied something or perhaps admitted something that the Board has proved. In other words, the proof that the respondent has brought has covered the whole field, but it has been defensive, it has been in negation of something that the Board proved or undertook to prove in its case in chief.

Now, let's see where it would lead if this is rebuttal. Well, if this is rebuttal, then everything that they proved in their case in chief can again be produced here and held as rebuttal, because it would be in negation of something that the respondent has proved. Well, that is not my conception of rebuttal testimony.

Trial Examiner Batten: Well, I'll say to you that that is not my idea of rebuttal either.

Mr. Hogsett: No. I don't think it could be logical, legally it won't stand up. I think this is a typical case of rebuttal that I am going to suggest; suppose a witness in the defense in the respondent's case had, in the course of the testimony, said they were, at a given time, at the meeting, say, of March 18, and heard what was said, and Mrs. [fol. 5851] Reed said this and not that; now, suppose they could show that that witness was working in a factory in Detroit on that day; that would be a perfect instance of rebuttal.

But for them to produce this lady to say she was sitting right next to Miss Mary Jones, respondent's witness, "It happened I was sitting right next to her, I heard Mrs. Reed's speech that day and what Miss Mary Jones said about it was wrong, Mrs. Reed said this and not that," well, that is all ancient history, we have been debating that subject, among others, for 3 or 4 years. I think that makes a perfect—not perfect, but maybe a crude but at least an illustration of what is and what is not rebuttal.

This lady is about, I gather from the purport and trend of the question, to say she, as the instructor, gave instructions or told these people in her section there was going to be a meeting. Well, how many times have you heard that already in their case in chief? That doesn't rebut anything; that isn't rebuttal, it is just some more testimony for the Board, in chief.

I think this is pretty fundamental, because I gather from the trend of the questioning so far that they are just going over their whole case again, and try to justify it on the ground—they pick out some witness, Ethel Riegel—I haven't been here to hear this, but I know something about what had gone on since I have been away—they may pick [fol. 5852] out a witness and say "Ruby Clayton said so-and-so, and now we want to prove that isn't so." If you let them get away with that—and I use that language without offense—then you are throwing the door wide open to about two or three more weeks, to the case in chief.

Trial Examiner Batter: Mr. Langsdale, were you going to say something?

Mr. Langsdale: Unfortunately for Mr. Hogsett, with regard to the argument, he wasn't here in this hearing nor the hearing of 1939, so he doesn't know what occurred, only what he read or someone told him.

Now, we had, in the 1939 hearing, one witness, May Fike, who said the girls in her section were sent to this meeting by their instructors. They bring along four in this lady's section who said that the instructor didn't send them to that meeting, "We learned of it out in the halls or by word from the girl next to me," or something of that sort. Now, when we say the instructor sent these girls to that meeting of April 27 and they come back to meet

that and they put on Ethel Riegel and Jennie Smith, or whatever the names are, and they say, "That isn't so, she didn't send us," certainly we have a right to show that that is so, and, "We sent you and you and you and you;" what could rebuttal be?

There was nobody that objected to any question they asked in the 1939 hearing along that line, the Examiner [fol: 5853] didn't deny them the right to prove whatever they had along that line. That isn't what the Court of Appeals sent it back specifically to prove, one of their offers of proof. They sent it back to show why and how they joined this Donnelly Garment Workers' Union.

Now then, they choose to put this evidence on in direct, and say that the instructor did not send them to the meeting, that is, four particular witnesses, and along they come and say, "You four witnesses were sent by the instructor."

Now, I believe that is just as perfect a case of rebuttal as Mr. Hogsett's illustration about somebody in Detroit. We will say one of those girls had said, "The instructor did send us to the meeting," and we had the proof they were in Detroit. Is there any greater variance in the testimony under that condition than there is to sit here and say, "Mrs. Dorsey didn't send me to the meeting," and Mrs. Dorsey comes along and says, "I did send that very girl to the meeting;" certainly that is rebuttal.

Now, they raise that in their offer of proof, and then put on some witnesses who swear to that, and we come along and show that those very witnesses aren't telling the truth about it.

Trial Examiner Batten: Miss Weyand?

Miss Weyand: I might point out that the witness on the stand is a witness that has been offered by the company [fol. 5854] themselves, and is named in their offer of proof for the purpose of proving something quite different from what she is prepared to testify.

I think, aside from the arguments here made on rebuttal, it is perfectly proper to put on one of the people that they offer in evidence, and have her testify to what her true understanding of the facts was. I think it is very

important that the Circuit Court of Appeals should have here in the record the evidence, the testimony of the people on their offer, who are not willing to testify in accordance with their offer, and particularly so when that witness was the instructor at the plant for a long, long period of years, had girls in her section who have testified here, and who can tell for the Circuit Court of Appeals' benefit and the Board's benefit, exactly what did occur.

Trial Examiner Batten: Just a moment, Miss Weyand. Surely that is not rebuttal.

Miss Weyand: No, I was —

Trial Examiner Batten: (Interrupting) Then, let us — I can tell you now I don't propose to accept that type of testimony.

Miss Weyand: Well, I was making it quite general, of course. This woman was the instructor for many years, of this section.

Trial Examiner Batten: Well, irrespective of that, I can [fol. 5855] tell you now I don't propose to accept any testimony on that basis.

Miss Weyand: I want the record to show I am going to offer a number of persons on their offer —

Trial Examiner Batten: (Interrupting) What I am concerned about is the matter of rebuttal. I am glad you mentioned the other point, however, because I am not going to receive it, so you might just as well prepare your offers of proof, and confine the testimony of these people to rebuttal.

Miss Weyand: Now, on the rebuttal point, I consider it rebuttal to put on any person who worked in a section there as an instructor or as a thread girl, or as a girl who sat next to one of the witnesses who testified here, when the witness I put on is prepared to state what she did, what she heard said in the presence of the other girl, that would refute the statements made by witnesses called by the company under their offer of proof and adduced here under the remand of the Court; and I am offering this witness on that basis. I think this witness is a particularly important witness because she is a witness called by the Com-

pany worked in section 415. Many of those witnesses mentioned Mrs. Dorsey by name, and it is certainly rebuttal to have Mrs. Dorsey herself come here and tell, for the benefit of the Board and the Court, exactly what happened when those girls were present. Her remarks were directed to the girls in her section, which included those girls, and [fol. 5856] I submit that is proper rebuttal.

Mr. Reed: Let me put it this way: Suppose we go back to the time when you were trying this case at first. The Board undertook to show that the plant union was a dominated union, by showing, by claiming that the instructors were persons in authority, and by showing that the instructors directed the employees to go to that meeting.

Now, they were allowed to go into that, they did go into that. Suppose they had then called this lady and she had testified to just what, evidently, she is going to testify to here. That evidence would have been competent, if any of it was competent.

Then we, on our side, would have had the right, with our witnesses at that trial and at that time, to have denied that testimony. Then, would you have said that if we, because we denied, we did not admit it, that the Board could again put on some more witnesses to the exact tenor it had produced, and say, "This is now rebuttal, because since we put our testimony in you put in your side of the case." If that is true, then what happens is this: the plaintiff puts in his case, the defendant puts in evidence contrary, then the plaintiff can go back and start to prove his case all over again.

Now, rebuttal must be a new matter that was not touched upon in the evidence in chief. So that what we are having here is a witness put on the stand to testify to the [fol. 5857] very things that she could have testified to in chief, and which they ought to have had her testify to in chief.

So that if we try it on that theory, they put on some evidence and they call it rebuttal, but it is part of their main case; we put on some evidence on the other side, and we call that — and immediately they say they want to rebut

that, and they put on evidence, and we come in with sur-rebuttal, and we just try this case four or five times over.

Trial Examiner Batten: Of course, there is possibility of that, Senator, providing I were to permit it. Now, we may differ as to just what is rebuttal. I think clearly Miss Weyand's first statement is entirely out of line, as far as I am concerned. I mean by that that you aren't going to try all the issues of this case over again, but I am still convinced in my own mind that if this witness testifies about these matters, which these four or five or six girls testified about here, that were in her section, and about specific matters in their testimony in the record, I don't see why that isn't rebuttal.

Now, with this understanding, of course, having tried the case once, and had it come back, I agree with you, Senator, in fact we did agree several days ago on this, that when a case of this kind comes back for further hearing, it certainly complicates the situation, it complicates it for everybody, because when it comes back you are just presented with the question of just why it was sent back, [fol. 5858] how far should you go, and that is only the first complication, and the further you go with a further hearing, the more complicated it becomes. Now, I am convinced that it is proper rebuttal, as I indicated to Miss Weyand in the first instance.

Now, I don't agree that we are here for the purpose of taking testimony, as stated by Miss Weyand a moment ago, because I think Miss Weyand admits herself that isn't rebuttal.

Now, I think, in order to get this matter worked out in my own mind, and I want to say I don't have it clearly in mind right now — I think I shall recess until 2 o'clock. And I want all of counsel to think it over in the meantime.

Mr. Langsdale: Before you actually recess, give me about two minutes, to read from the respondent's offer of proof, on page 15: "That he—" meaning the employee,— "was never directed, ordered by anyone, either the instructor employed by the Donnelly Garment Company or any officer, executive, supervisory employee of the Donnelly Garment Company or Donnelly Garment Sales Company, to attend the meeting of April 27, 1937."

They made that offer of proof, which was denied, and they went up to the Court of Appeals, and the Court of Appeals said they should have been permitted to make that proof, and they came back here and made it, and now they want to preclude us from showing that the very [fol. 5859] witnesses put on the stand aren't telling the truth about it.

Trial Examiner Batten: Well, Mr. Langsdale, I think my statement that I have made two or three times, about what is rebuttal, would cover, perhaps, that matter. Where a specific witness — you had several specific witnesses say that they worked in section 415 during March and April, that the instructor did not tell them to go to this meeting, nor did she say anything to them.

Now, I am inclined to believe that under the circumstances here, that is proper rebuttal.

Mr. Langsdale: I just wanted to call your attention to their offer of proof.

Trial Examiner Batten: I haven't worked the thing out fully in my own mind as yet, and that is the reason I want to recess until 2 o'clock.

Mr. Hogsett: I think that is a wise thing, because while this particular question is relatively unimportant, you are going to have it occurring again and again and again.

Trial Examiner Batten: Well, it isn't unimportant, because if I can get it straightened out and settled in my own mind, whether you accept my ruling or not, from now on you can proceed with the testimony.

Mr. Hogsett: That is what I think, that you get the legal scope of the rebuttal settled now, and I think I can get some legal aid for you on that.

[fol. 5860] There is one thing that Mr. Langsdale and Miss Weyand have each referred to and I want to make a comment about it. They each seem to be laboring under the opinion — I was about to say delusion, because I think it is a delusion legally — that they are entitled to disprove something that is stated in an offer of proof.

Well, that is not the law. An offer of proof is not proof. It is a mere showing on the record by a party whose proof

has been rejected, as to what it would be if he were permitted to offer it.

Now, offers have been made — Mr. Langsdale read from one, but that offer was rejected. Now, the Court of Appeals held that it was improperly rejected, and sent it back, but the point I make is that because something appears in an offer of proof doesn't mean that they, under the guise of rebuttal, can take up that statement and disprove it.

It is just wrong, 100% wrong, as a matter of law.

Trial Examiner Batten: Well, I think, Mr. Hogsett, that I disposed of that.

Mr. Hogsett: I thought you did too.

Trial Examiner Batten: I mean that general question, when I said to Miss Weyand that I didn't think that the offers of proof meant that Board's counsel could proceed to disprove the offers of proof.

Mr. Hogsett: That's right.

[fol. 5861] Trial Examiner Batten: And neither does it mean, clearly, that if there is testimony that should have been offered by the Board in the original hearing, it doesn't mean that it can now be offered and received.

Mr. Hogsett: I agree with both of those statements.

Trial Examiner Batten: Now, the only question in my mind is, what is rebuttal, and whatever conclusion I come to on it, I am going to limit the discussion to rebuttal.

Now, that is the only question, and I think at 2 o'clock I'll do this — I'll give you each 15 minutes at 2 o'clock to tell me anything further you want to tell me about rebuttal.

Mr. Reed: While you are thinking it over, I wish you would think of this situation, if I may ask you to do that, the prosecution put on witnesses who said that the instructors had sent them to this meeting. That was regarded as proper.

Now, they had a right to put on as many witnesses to that as they wanted to put on. This lady could have tes-

tified then, and if they had ~~her~~, she should have testified then and they should have made their complete case.

Now, we come to our side of it, and we put on witnesses that rebut this testimony that has been put in, to deny or controvert this testimony that they had put in, to the effect that the instructors had sent the employees down to the meeting. So, there is their evidence on one side, here [fol. 5862] is our evidence on the other side, in direct denial. Now—

Trial Examiner Batten: (Interrupting) But I am convinced of this, Senator, that if these people who testified in this hearing had testified in the original hearing, and the Board had then offered some testimony in line with the suggestion which I have made—and it is not yet a ruling—I am convinced at that time I would have received that type of testimony.

Mr. Reed: That is to say, if there were 50 witnesses that knew a certain fact, and the Board put on 10 of them and stopped, then if we, on our side, put on 10 witnesses to controvert what had been offered and nothing else, then the Board comes in and says, "Well, I want to bolster my case, I want some more evidence, you swore to a certain set of facts here, and I want to rebut the facts," although those facts which we put in were in rebuttal of the case in chief.

Trial Examiner Batten: No, I don't think I could go along with you on that, Senator.

Mr. Langsdale: That is not this case.

Trial Examiner Batten: As far as this particular ruling is concerned, I couldn't. I agree with you heartily that as a general proposition I think you are absolutely right, it is not a question—it is somewhat similar, although not entirely so, to this matter of cross-examination. You have direct examination, then cross, then redirect, then [fol. 5863] recross, and it can get to the point where all you do is to pass witnesses back and forth to where there is never a stopping point. Now, I don't have any such thing in mind as that, and don't propose to proceed on any such basis as that.

[fol. 5864] Mr. Lane: Mr. Examiner, the intervener has his offer of proof ready to present.

Trial Examiner Batten: That will be 1-XXXXX.

[fol. 5865] Trial Examiner Batten: Mr. Lane, in reading this, this offer is—while it makes reference to matters prior to July 15, 1939, do I understand from the heading that it is supposed to cover that period subsequent to July 15—

Mr. Lane: That is correct. I did refer, in that one paragraph, to "... continuously from its organization ..."

Trial Examiner Batten: As long as it is understood that it is an offer of proof pertaining to the organization subsequent to July 15, 1939,—

Mr. Langsdale: I move to strike out the other part of that.

Trial Examiner Batten: Miss Reporter, will you mark this?

(Thereupon the offer of proof above referred to was marked "Board's Exhibit No. 1-XXXXX" for identification.)

Mr. Langsdale: Mr. Examiner, in view of the statement as to the understanding, I can see no point to leaving the language in the offer of proof, "... continuously from its organization on April 27, 1937, to July 15, 1939, ..." I don't think that should be in that offer of proof and I move to strike it out.

Trial Examiner Batten: I am not going to pass on the offer today, so I will not pass upon your objection today, Mr. Langsdale.

[fol. 5866] Mr. Langsdale: My thought was this: someone reading this record might not read this little colloquy, so if they do not mean to make the offer as between those dates, it should not be in their offer of proof.

Trial Examiner Batten: Of course, I don't know whether we have the right to assume that the people charged with the responsibility of passing upon these matters are not going to read the record or not. But I will reserve my decision upon the offer of proof, as well as the motion to strike, at this time.

Mr. Hogsett: May I have the number of that?

Trial Examiner Batten: No. 1-XXXXX.

Mr. Langsdale: I want the record to show now that the International Ladies' Garment Workers' Union has no objection to this offer and stands ready to meet it with witnesses.

Mr. Hogsett: The respondent joins in the offer of proof designated Board's exhibit No. 1-XXXXX.

Trial Examiner Batten: Well, I understood the respondent took the position thus far in the hearing that they didn't believe the matters were material from July down to the present, Mr. Hogsett.

Mr. Hogsett: That is not an accurate statement of the position of the respondent, as I understand it. The position of the respondent is that the Board is not entitled nor is the International entitled to offer evidence of acts by the [fol. 5867] respondent other than those alleged in the complaint but that circumstances, evidential facts, which may have occurred yesterday may be admissible if they throw light upon the issues framed by the complaint.

Trial Examiner Batten: Well, of course, I didn't understand that to be Mr. Ingraham's position.

Did I misunderstand you, Mr. Ingraham?

Mr. Hogsett: That is the respondent's position, as I understand it.

Trial Examiner Batten: Did I misunderstand you, Mr. Ingraham?

Mr. Ingraham: Yes.

Trial Examiner Batten: The other day when I struck Mrs. Reed's testimony as to matters after July, Miss

Weyand objected to that if those facts reflected the situation prior to that date. I understood that the respondent at that time was in opposition to Miss Weyand's position.

Mr. Hogsett: In that part of the record which I have is a statement by Senator Reed which quite clearly, to my mind, indicates he was taking the position that the Board should be held to the issues framed by the complaint, but that any circumstance which may have occurred at any time within reasonable proximity to the facts and circumstances in issue is admissible if it throws any light on the issues, either one way or the other.

[fol. 5868] Mr. Langsdale: On the Board's part or—

Mr. Hogsett: Oh, on anybody's part, that throws light on the issues, and has a reasonable tendency to prove or disprove the facts in issue, is admissible. I do not understand how you can draw a line anywhere and say that nothing that happened after this date is admissible at all. If something that happened after that time throws light upon the facts in issue, then I think it is admissible.

Trial Examiner Batten: The question arose, Mr. Hogsett, in the first instance, when we were going to try out the situation from July, 1939, down to the present time.

Mr. Hogsett: I understand that. And Senator Reed took the position, and, I think, with complete validity, that the Board cannot litigate facts or alleged facts that are not in issue; in other words, not long since, or long prior, for that matter. But there is a distinction between that and the right of a party, either the Board or ourselves, or anybody else, to prove an evidential fact which reflects light, one way or the other, upon the issues.

Now, to my mind that is perfectly clear. It seems to me there is not only a distinction that is sound formally but substantially.

Trial Examiner Batten: Of course, we are not here to discuss that. Of course, it may be a distinction without a difference.

[fol. 5869] Mr. Hogsett: That is possible, but I think not.

Trial Examiner Batten: I believe that the position he took is not only sound but proper, and the question now before us is with respect to the rebuttal testimony.

Mr. Hogsett: Yes, sir. Now, I would like to be heard briefly on that.

Trial Examiner Batten: Yes.

Mr. Hogsett: I said, Your Honor, I would attempt to get some law which would aid you in formulating a workable program in the rulings upon evidence with respect to whether it is proper rebuttal or not. Now, I have found, or Mr. Stottle has found, and I am now presenting the decision in *Light v. Toledo, St. L. & W. R. Company*. (District Court, N. D. Ohio, W. D.) 208 Federal 158. I will read very briefly from the opinion.

Mr. Langsdale: What Court?

Mr. Hogsett: Federal District Court in Ohio, Judge Killits.

(Reading) "We propose to notice particularly the position of counsel for plaintiff that the Court erred in excluding the testimony of the two Pratts (two witnesses) offered by plaintiff in rebuttal. It is very plain, and in fact not disputed by counsel for plaintiff, as we understand them, that this testimony was competent in chief. In our judgment, it went beyond the fact of mere competency; it be-[fol. 5870] came, considered in the light of the allegations of the petition, a substantive part of the plaintiff's case in chief."

Now, note, please, this language which follows:

"The fact that, as it was offered to be testified to, it would tend to contradict the evidence of the defendant does not make it proper rebuttal under the circumstances, because the testimony which it was offered to contradict was itself contradictory of the testimony in chief. The authorities cited to us are principally cases in which the Court's discretion in admitting testimony in rebuttal, which was competent in chief, was not criticized."

Now, I pause there for a moment, and then I will come back to this opinion.

This says, in better language than I used, the thought—that I was somewhat awkwardly attempting to present to you before the adjournment.

You had in mind, and perhaps you now have in mind, that because the testimony of this lady might contradict something that the respondent has offered, that ipso facto and alone—

Trial Examiner Batten: I didn't have that in mind, Mr. Hogsett.

Mr. Hogsett: You did not? Well, I gathered that you might.

—that the fact that it would contradict what Witness Jennie Jones or Mary Smith, offered by respondent, might have [fol. 5871] said made it competent, but this is to the contrary.

Trial Examiner Batten: No, Mr. Hogsett, I don't think the matter of contradiction has anything to do with it.

Mr. Hogsett: I am glad to hear you say that, because—

Trial Examiner Batten: I mean, from the standpoint of my ruling on the matter.

Mr. Hogsett: Well, I am glad to hear you say that.

You did say this:— I am not, of course, trying to pin you down to anything, except for purposes of illustrating the legal question I am now presenting. I believe you did say this, that this lady apparently would contradict something that some four or five or six witnesses said. Now, I gathered from that, that you had in your mind that the mere fact of contradiction automatically made it proper rebuttal, and I respectfully differ from that. I believe this case differs from that. The fact that if it was offered to be testified to, it would tend to contradict the evidence of the defendant does not make it proper rebuttal because—

Now, the Court doesn't just give you that and then leave it there; it gives the reason:

“... because the testimony which it was offered to contradict was itself contradictory of the testimony in chief.”

I didn't put it in that form, but that is what I was driving at, that the evidence that you heard here in this last month has itself been contradictory in part. Here and [fol. 5872] there, there has been agreement, of course, but the aim has been to disprove the Board's case.

Now, comes along the Board and puts on a witness and is now going to contradict what we have shown. Now, there would be no end to that, if that theory should prevail with complete freedom; there would just be no end to it, because the logic of it would compel you to rule that after this series of proof is received, anything this lady should say, that we would have a right to again come on and contradict her. So, then, in surrebuttal—or maybe it is surrebuttal—they would have, in turn, the right to come on and contradict what our people have said. There has to be an end.

The rule is, I believe, that any evidence that is competent in chief—and this clearly is—is not proper rebuttal, and the fact that it contradicts the evidence of the defendant does not add to its character or does not validate it as rebuttal:

Now, this Court goes on:

"We do not think that there is any soundness in the proposition that this alleged rebuttal testimony was competent by way of impeachment. Impeachment, to be competent in rebuttal, must be something more than a mere contradiction which is of the same character as the affirmation in chief to which the testimony in defense is offered in contradiction."

Now, when you ravel that language out—I'll confess, [fol. 5873] the first time I read it—and it may be the first time you have read it—you don't get it, but when you ravel it out, it has the philosophy of this thing better stated, more clearly stated, more precisely stated, than any case I have found.

Now, Stone against the Milwaukee, in the Eighth Circuit Court of Appeals, says:

"The evidence offered in rebuttal was clearly a part—"

Mr. Langsdale: What page and what book?

Mr. Hogsett: I beg your pardon. 53 Federal, 2d Series, 813 local, citation 860.

(Continuing) "—was clearly a part of the plaintiff's main case on these issues. (This was a negligence case.) Plaintiff should have introduced all his evidence in chief in the first instance, and not reserve a part of it for rebuttal. Rebuttal testimony should be directed to a rebuttal of the testimony brought out by the defendant. The rule requires that plaintiff must try his case out when he commences, and cannot divide up his evidence so as to give part of it in chief and hold back part of it for rebuttal."

I pause there to inject this: The court then goes on and states a rule which, I am frank to admit to you, is that the admission of testimony not strictly rebuttal is discretionary. Now, they no doubt will argue that; I expect it, and admit it. But I am assuming that you meant what you said, when you said, "This rebuttal is going to be rebuttal. [fol. 5874] And when I say 'rebuttal,' I mean 'rebuttal.'"

In other words, this discretion that is lodged in you, you are not going to resolve it in favor of the admission. I take it that is what that language means, when you say, "And when I say 'rebuttal,' I mean 'rebuttal.'"

In other words, you are not going to stretch the rule to admit but you are going to apply it as it is.

"True, the Court may, in its discretion, admit in rebuttal evidence which properly should have been introduced in chief, but any relaxation of the rule is an appeal to the sound discretion of the Court."

Then, citations of cases.

"The testimony offered in rebuttal was as available when the plaintiff put in her testimony in chief as it was later in the trial. There was nothing to appeal to the Court's discretion, and the exclusion of the testimony was not error."

I could go on with cases from now until 5 o'clock, but those two tell you all that I can give you to aid you in reaching a proper solution of this law question.

Trial Examiner Batten. Mr. Tyler?

Mr. Tyler: Mr. Examiner, I find quite often that on the question of evidence there is no better basis for fundamental theories than Prof. Wigmore, and I note that he says on the subject of rebuttal evidence:

[fol. 5875] "Certainly evidence which would, should or could have been a part of the case in chief is not properly a part of rebuttal evidence."

It goes on, Volume 4, page 24:—

Mr. Langsdale: What—

Mr. Tyler: Wigmore on Evidence, Second Edition.

In the next place, the evidence offered thus tardily may consist in new facts which ought to have been put in before or in a repetition (either by a new witness or by the same former witness) of former facts already once evidenced. The customary rule will equally forbid both."

That is, neither may the prosecution add to the nature of evidence which it has already introduced in its primary case nor may it introduce new evidence which it could but did not introduce in its original case.

Now, in 1939 the Board built its case as it saw best. It had unlimited opportunities and it could have "concentrated its fire" on the meeting of April 27 or on any other subject—

Trial Examiner Batten: Now, Mr. Tyler, on that point—You say it had "unlimited opportunities"—

Mr. Tyler: I think so.

Trial Examiner Batten: If I recall correctly, I think the Board was stopped on several occasions, also. In fact, I think all of the attorneys in this case, both in the 1939 case and the present one, are all inclined to the belief that [fol. 5876] they should be permitted to present more than I have been inclined to receive.

Mr. Tyler: I didn't mean to refer to rulings on evidence, but they had an opportunity to bring in to Court any facts they thought were persuasive and offer them. Now, they could have concentrated on one set of facts or another. They did go into the question of whether instructors told girls to attend meetings.

Now, the respondent and intervener built their case according to the case of the plaintiff's. If the prosecutors had taken an entirely different fact and used different evidence, undoubtedly the defense evidence would have been built to meet it, but the defense is in and has committed itself, relying on the case made by the prosecution, and to now add to that case, even in the weight of one particular part of it, is to destroy the fairness of trial to the defendant, which has a right to rely on the presumption of law that all of the evidence in chief on which the prosecution relied was presented.

Trial Examiner Batten: What would happen, Mr. Tyler, if you were presented with this: supposing I were to accept Mr. Hogsett's statement of a moment ago that any circumstances that occurred since that throw any light on the situation as we heard it in 1939 are relevant? I mean—

Mr. Tyler: I presume if there was something they couldn't present at that time—had no opportunity to [fol. 5877] present at that time—some new subject came up; then I think it would be within Your Honor's discretion, but I think you have already indicated what your discretion is.

I think the difficulty we are in here is from a feeling which we all have, which is not the fact, that the testimony of this witness in some way tends to impeach the testimony of the other girls in section 514. We have a sort of a feeling that if they say, "We were not told by the instructor to go to the meeting," then if the instructor might say they were, that would in some way impeach these witnesses. That is not a fact. If the president and the board of directors and every officer of the company contradicted that girl, it would not impeach her—it would not impeach these witnesses from section 514; it would merely go to the weight of the evidence, and it would still be a part of the case in chief. Corpus Juris says impeachment does not include that kind of evidence. It says:

"It has been laid down that there are but four modes of impeaching the credit of a witness: One, by cross-examination; two, by proving previous contradictory statements or acts." The others are not applicable here.

Now, I agree that if the witness on the stand offered to say she heard these witnesses who say they were not told by the instructor to attend the meetings say positively at another time that they were so told—I would think that would be impeachment, but merely for this witness to say [fol. 5878] —if that is what she intends to say—they were so told, or even “I told them,” is not impeachment, it is merely evidence on the other side of the case.

There are other methods of impeachment that have no bearing here, such as to show the conviction for some infamous crime, general lack of credibility, and so on. But the thing that is important here is that the only method of impeachment which, by any stretch of the imagination, could apply here is that the evidence was that these witnesses who said they were not told to go to the meeting themselves at some time said that they were; in other words, contradicting themselves.

But I care not how many of the other employees, board of directors, president, or mayor, or city council, or anybody, say that they were told to do so, that does not impeach the witness, and therefore, is merely additional evidence in chief which should have been presented when the Board presented its case and is wholly incompetent as rebuttal evidence.

Trial Examiner Batten: Miss Weyand?

Miss Weyand: All of the cases which have been cited by counsel for the company are cases where an appellate court said the Trial Examiner did not err in refusing to hear rebuttal—all of them clearly say it is within the discretion of a court to hear rebuttal on any matter which con-[fol. 5879] tradicts a matter raised in defense, even though it might have been presented in chief.

The usual rule for determining what is appropriate rebuttal is whether or not—and this appears from the quotations from the cases, both of the Federal cases cited by counsel for the company—whether or not rebuttal is a repetition of what occurred in chief. Now, in the case in chief here there was no direct proof as to whether or not any instructor on the eighth floor or the seventh floor sent any person to the meeting or notified any person of the meeting,

as I recall. May Fike was either on the fifth or sixth. There was none as to the floor from which most of the witnesses called by the company came.

When you put on a case in chief and make out a prima facie case by putting on a witness who says on her floor, in her section, the instructor sent her to the meeting, you assume, unless there is something in answer, that that stands for the whole plant. Then, when in answer the company comes in and shows by specific girls, in specific sections, that they were not sent by their instructors, then it becomes proper rebuttal to show that on that floor, in that section, they were sent to the meeting. I think that is proper rebuttal. We couldn't anticipate what section or what part of the floor they were going to call the girl from.

It requires proof of the complete facts—everybody who could testify in contradiction of anything they might put in. [fol. 5880] That is not the rule as to a case in chief.

For that reason I submit that it is entirely proper for the Board to present in rebuttal the testimony here offered.

I want to point out that I have never heard of a single case in my life where any court reversed any lower court, trial court, for allowing any matter to be put in in rebuttal that contradicted anything that was put in in defense. The cases come up on the question of whether or not it was reversible error to refuse that evidence in rebuttal. And there are many cases that hold that there was reversible error for a trial court to refuse matters in the case of witnesses put on for the defense where the matter offered is not entirely a repetition, as to exactly the same circumstances that were given in the case in chief. If it is the same witness that saw the same incident, in the same room, that you want to put on, then that is a repetition of the case in chief. That is not what we are trying to do here. Where it is a matter that has not been put on in chief and contradicts evidence put on in defense, the courts have reversed the trial courts for not allowing that sort of rebuttal.

Mr. Langsdale: If it please the Examiner, the matter which the Board seeks to offer evidence on here is in reply; at any rate, to evidence that was offered, and received, by the respondent and the intervener. Now, why was that

evidence received? If it is true that the Board and the International Ladies' Garment Workers' Union covered the matter in their main case, then it was the duty of the respondent and the intervener to answer it in the main case. Certainly, if that rule works against the Board and the International, it works against the respondent and the intervener.

Why were they offering it here? They were offering it here only upon the theory that the Examiner excluded it in the last trial, and of course the Examiner excluded nothing in the last trial that was in answer to anything the Board or the International put on. So, you should strike out that evidence of theirs as not being within the scope of the remand or you should permit the Board and the International to reply to it. It has no place in this case on the remand, as it should have been answered, and they had an opportunity to do it without any contrary order, in 1939. But the respondent and the intervener assert that that matter was not covered in the 1939 hearing, that it is something new. If it had been covered, it was their duty then to answer it, and not now.

Now, as to the question of whether or not it is rebuttal, of course, as Miss Weyand pointed out, their cases hold that the trier of the fact did not exceed his discretion by refusing it or admitting it, but, as was also pointed out by Miss Weyand, there are many cases that hold that the trier of the fact may be reversed when he refuses admission of such testimony as an abuse of discretion.

[fol. 5882] I have here the case of Ankersmit et al. v. Tuch, in the 20th Northeastern Reporter, at page 819. It is in the New York Court of Appeals case. I will just read the syllabus because it covers the law and facts:

"In an action to recover the possession of certain goods alleged to have been purchased by the defendant's assignor by means of false and fraudulent representations as to his solvency, where the assignor, on being called as a witness by the defendant, had testified, on cross examination, that he had not made certain statements to one B. with regard to his solvency, it was competent for the plaintiff to show by B. after the defendant had rested that the assignor had

made such statements to him for the purpose of impeaching the credibility of the assignor, although the evidence of B. would have been competent on the direct examination by plaintiff; and the fact that it was not then introduced did not make it discretionary with the trial court to subsequently exclude it."

I think that is on all-fours with this case.

We, they say, could have offered this testimony in our case in chief. But along they come and say these instructors did not send the girls down to the meeting. Now, we had one witness who said she was sent to the meeting, and that was May Fike. They come along with ten or eleven to say that they were not and it wasn't done.

[fol. 5883] Now, what is the purpose of their offering that testimony? Do they hope by eleven witnesses against one, the trier of the fact will hold that the balance is overwhelmingly in their favor? That must be their reason, because they had an opportunity to reply to that evidence in their defense in 1939 and they didn't do it. Now they come along, under the offer of proof, which is based upon the theory that you refused that evidence in 1939, and offer it.

Now, if you did refuse it in 1939, we certainly had no opportunity then to reply to it. The first chance we have is now, when they offer this testimony.

I think that goes not only to this testimony in answer to the question Miss Weyand asked, but in answer to other questions she may ask.

They covered the duties of an instructor. I don't know why they did that this time. The last time they put Mr. Baty on, who went the full route and testified no instructor had any authority at all, that he was the only supervisor over some 1,200 or 1,300 people. They answered it then; why not now? And if they answer it now, we have a right to reply to it. If they had put on these witnesses when they had the opportunity in 1939, we could have done it then, but they wait until now.

Mind you, that is a field that was fully covered by them, by Mr. Baty and other witnesses, but here, under this offer [fol. 5884] of proof, they offer a number of other witnesses.

What are we to do, just say they have eleven and we only had one, or are we to reply to the evidence they put on under the guise that they had no opportunity to do it in 1939?

Trial Examiner Batten: Well, Mr. Langsdale, let's assume that in 1939 they didn't have an opportunity to put it on; that wouldn't change the situation particularly, would it? The only question here is whether or not—

Mr. Langsdale: —whether it is rebuttal.

Trial Examiner Batten: —whether or not it is rebuttal or reply testimony.

Mr. Langsdale: Whether it is rebuttal of anything properly in the record in this hearing. If we are excluded from producing that kind of testimony because we had the opportunity in 1939, then why are they permitted to put it on, when they had the same opportunity to answer it?

Trial Examiner Batten: I think I indicated this morning, and I am still of that opinion, that any ruling I make in the matter is not governed, Mr. Langsdale, by that particular factor. I do not consider that an important factor. It may be one of the factors; that is, whether everybody had the opportunity before. The fact remains, however, they didn't have the opportunity before, because the circuit court sent it back.

Mr. Langsdale: Of course, I say this language contained [fol. 5885] in that offer of proof—I think that should have been in a separate offer— The offer of proof of why and how they joined this union is not corollary to the offer that the instructors did not send people down to this meeting. If it is, then they replied to it in 1939—had the opportunity to reply to it, and did reply to it. Then, they are opening the case up again on that proposition.

This hearing is for the purpose of permitting them to put in testimony the Examiner wouldn't permit them to put in in 1939. Isn't that right?

Trial Examiner Batten: That is the fundamental basis of it.

Mr. Langsdale: What right do they have to introduce evidence on these points they did put on in 1939, and say to

us, "We are going to pile up witnesses and you will have to keep your mouth shut."?"

I want to refer to the case of *Stanley v. Beckham*. 153 Federal Reporter, page 152. This is an Eighth Circuit Court of Appeals case. I will read one paragraph of the syllabus:

"In an action for broker's services, defendant sought, on cross examination of plaintiff, to prove an agreement to accept an employment and certain stock, in full for his services; but this, on objection, was excluded as not proper cross examination, as being matter of defense. As a part of the defense, one of defendant's witnesses testified that, [fol. 5886] after the services had been rendered, plaintiff in a stated conversation, accepted as full compensation a position as salesman and defendant's agreement to carry for him, on certain terms, certain capital stock of a corporation. Held, that it was error, after the admission of such evidence, to refuse to permit plaintiff in rebuttal to give his version of such conversation, so plaintiff had previously in such cross examination testified to certain phases thereof."

Trial Examiner Batten: I think that particular matter is in line with the suggestion which I indicated this morning, without having given any thought to the matter. As a matter of fact, I am more certain now, after having given the matter some thought, that my statement this morning concerning it is correct, and I am equally certain that my statement to Miss Weyand this morning about her first proposition is correct. So, as the result of two hours or two and a half hours of giving it some thought and listening to all counsel, I am still of the opinion that my statement on it this morning was substantially correct.

Mr. Reed: If Your Honor will indulge me for a few moments,—

I think that the theory of the other table basically has been well expressed by Miss Weyand. Her theory is—and she said it very clearly—that when a party starts to try a case, all the plaintiff has to do is to make out a prima facie case. Then, if that is denied by the defendant, the plaintiff [fol. 5887] can go and make out his full case.

Now, that isn't the law anywhere. If it was, and there was a case here involving a controversy of great importance, and one witness would be put on and swore to enough to sustain the charge, and there were no witnesses on the other side, the charge could be sustained. All they would need to do is put that witness on and say, "Now, there is your prima facie case. It isn't our case—oh, no,—but that is our prima facie case. And when you come in to deny it, then we will put in all of our case."

Now, that—I cannot characterize it in any other way than to say that that is a mistake. That isn't the law anywhere in this country. The law is that the plaintiff must put in his full case and rest, and that the defendant shall put in his full case and rest.

Now, if the defendant has introduced into his defense an entirely new subject matter, then the plaintiff can rebut it, and if in rebutting it he brings in an entirely new subject matter, that can be met by surrebuttal.

Now, let's see—I don't think I need mention this; for the Examiner has already put his finger on it. Let's see what our situation is.

I will call these people the plaintiff over here (indicating Miss Weyand and Mr. Langsdale); it is more polite than "prosecutors."

[fol. 5888] The plaintiff makes a charge. We are summoned here. And the plaintiff's—the prosecution's duty is to make its case, to prove those charges. If they do not put in evidence to prove those charges, the case, of course, falls by the wayside. But if they do, like any other litigant, they must put in all of the evidence they have to sustain those charges.

Now, they put in their evidence, and a part of that evidence was, and a part of their argument here and before the Board and before the Circuit Court of Appeals was that the instructors marshalled these employees and marched them down to the meeting at which the union was to be organized, or the preceding meeting. They put that in evidence, and they rested with that point, so far as they were concerned, proven. That was prima facie, as Miss Weyand said.

We then came forward and sought to rebut that evidence—to disprove it and put in our side, and when we got to a certain point Your Honor sustained objections to all of the evidence which we sought to introduce to rebut and overthrow what had been offered by the prosecution.

Thereupon, in order to save the point, we made elaborate offers of proof, but we were not allowed and we did not have the opportunity to put that evidence in. Your Honor was of the opinion that it should not go in. We, therefore, were denied the opportunity at that time to prove our side of the case and meet the charges and the evidence against us.

[fol. 5889] Now, the case went to the Circuit Court of Appeals and the Circuit Court of Appeals said that evidence is competent, that that evidence must be received, must be weighed and considered, and until that has been done there has not been a trial according to the law.

Now, we come back here to carry out the mandate of the Circuit Court of Appeals. There has been some difference here in our arguments as to what the scope of this hearing should be, which is a mere continuance of the other case. It is exactly the same as though we were trying that other case, as though this evidence had been admitted, as though the prosecution had rested, and as though we had come in then and offered all of this evidence that we have now offered. It is a mere continuance of that hearing, and that has been the import of Your Honor's ruling. That record, you say, is in the case, and we are here now to enjoy the opportunity which we would have had at that time if your ruling had been otherwise.

We, therefore, put in the rest of our defense, and we put in nothing new. We have simply put in more evidence to prove that the charge that the instructors were in control down there and that they bossed these people around and intimidated and coerced these people, is not the fact. So, we meet them squarely head-on.

Then, they turn around—I guess, under Miss Weyand's [fol. 5890] theory, and say, "We were only obliged to put

in a smattering of evidence to start with, and now we can go on and retry our case."

Now, I submit any ruling permitting that would be wrong, unfair, and would put any defendant—if that ruling were to be invoked or established, put him in a position so that he must go to trial and expose all he has and, because the prosecution has only put in, according to their theory, a prima facie case, he has to frame his evidence to meet a prima facie case, and that's all. Then, when you get through demolishing the prima facie case, they come back and say, "That isn't our case. We are now going on and put in a multitude of other evidence." Then, as has been said by Mr. Hogsett, comes the question of trying the case all over again.

Now, that is not orderly justice.

Now, I want to urge just one thing further:

Your Honor made a ruling— We were here with witnesses, a large number of them, and prepared to bring more—

Trial Examiner Batten: You mean, the day I ruled?

Mr. Reed: Yes.

Trial Examiner Batten: Yes. I think you had—about what—four?

Mr. Reed: Yes. And about forty ready to come.

Trial Examiner Batten: Yes, but I am speaking of those who were actually here.

[fol. 5891] Mr. Reed: Yes.

Trial Examiner Batten: You had a reserve.

Mr. Reed: Yes. We were getting out war orders and keeping everybody down there working, so—

Trial Examiner Batten: Yes. I think I suggested that to you, as a matter of fact, not to have them all here.

Mr. Reed: Yes, you very kindly did.

Now, we were prepared to go ahead and put on a great deal more testimony. Your Honor has said, "It is cumulative and I am going to rule that no evidence is to be of—"

ferred that is part of the case in chief of the prosecution. That isn't to be offered. I am not going to open that up. I am going to limit you now to rebuttal, and I mean rebuttal." And you said that with some emphasis.

Trial Examiner Batten: And I still mean it.

Mr. Reed: I think you do.

Now, if you were to open up this case and go into all of those other matters that have no relation to the charges, then, in that case, we would have been limited in the number of our witnesses, and the prosecution could come in perhaps with an equal number, but nothing like the number we could have presented, and we would try the case, then, in that haphazard way.

Trial Examiner Batten: Of course, Senator, I think I indicated the other day the number of witnesses is not the [fol. 5892] important factor.

Mr. Reed: That is true.

Trial Examiner Batten: We have done a lot of talking here about, someone has had ten witnesses, and somebody else has had five witnesses, and so on. That is not the criterion we use—

Mr. Reed: No. The greater weight of the evidence, and not the greater number of witnesses is—

Trial Examiner Batten: But, Senator, there is one question I would like to ask you, if you care to answer it:

Under the situation in which we now find ourselves here, is it your opinion that the Board would be entitled to any rebuttal? I mean, do you take the position that we are at the point now where we should stop?

Mr. Reed: If there is any new matter that we have brought out, they can put in evidence in rebuttal of that, I grant you.

Trial Examiner Batten: How about the testimony of Mrs. Reed?

Mr. Reed: You struck it nearly all out.

Trial Examiner Batten: Just since July 1939, Senator. But I took the position with Mrs. Reed that I was going to

exercise my discretion, because, due to matters over which she had no control, she wasn't here last time. I didn't do that because I felt that the Circuit Court had ordered me [fol. 5893] in its decision to take the testimony of Mrs. Reed; I did it because I thought it was fair that Mrs. Reed should have an opportunity to testify.

Now, certainly, in Mrs. Reed's testimony there were some matters which I would say might require a reply.

Mr. Reed: If she brought out a new matter which is material in this case, which hadn't been brought out by the prosecution. They do have the right on any matter of that kind to offer evidence to the contrary.

Trial Examiner Batten: Well, I think we have spent enough time on the discussion of it. I think we probably would all enjoy a ten-minute recess at this time, and then I will make my ruling on it.

[fol. 5894] Direct Examination (Continued).

Trial Examiner Batten: Miss Weyand, you may proceed, in line with the suggestions which I made this morning, and if you have any other testimony in line with your other suggestion, you make it as an offer.

Miss Weyand: All right.

Trial Examiner Batten: Because I don't propose to go into all those matters, and the examination will be limited in what I consider to be rebuttal, in line with the suggestions I made this morning.

Now, I have had the reporter read to me the last two or three questions, and the last question was answered. I presume everybody would like to have the last three or four questions and answers read, so Mr. Reporter, will you read them?

(Thereupon the last questions and answers were read by the reporter as follows:

"Q. Did you attend the meeting at which the Donnelly Garment Workers' Union was organized?"

"A. Yes, I did.

"Q. Did you know before you got to that meeting that such a union was going to be formed?

[fol. 5895] "A. Well, I don't know, but we sort of surmised something.

"Q. How did you learn of that meeting?

"A. Well, I don't remember, but it was either by telephone or by Mrs. Wherry telling us; she usually went around and told the instructors.")

Trial Examiner Batten: You may proceed.

Miss Weyand: Do you know how the girls working in your section learned of the meeting at which the union was organized?

Mr. Hogsett: That is objected to for all of the reasons heretofore asserted as not proper rebuttal and particularly unless the question is limited to the particular witnesses heretofore offered by respondent, by name.

Trial Examiner Batten: Well, you may answer the question, and then you may proceed, Miss Weyand, to bring it within the ruling which I have made.

Mr. Reed: May I hear the question, please?

Trial Examiner Batten: Yes.

(Thereupon the last question was read by the reporter.)

Mr. Hogsett: Just yes or no.

Trial Examiner Batten: Just a minute, Mr. Hogsett.

Mr. Hogsett (Interrupting): I am suggesting that that calls for merely a yes or no answer.

Trial Examiner Batten: Well, I never required a witness to say yes or no.

[fol. 5896] Mr. Hogsett: But, that is all that that question calls for, isn't it?

Trial Examiner Batten: I know, but I have placed no limitations on it. Prior hereto I have given witnesses unlimited latitude, as I have indicated to several witnesses we had while you were away. If they would answer yes or no, or answer definitely, then we didn't get into a sort of endless discussion.

Mr. Hogsett: I wasn't trying to say anything improper, but I thought the question called for, "Do you know or don't you know," and that necessarily would be yes, or no.

Trial Examiner Batten: Well, I don't require yes or no answers.

Will you read the question, please?

(Thereupon the last question was reread by the reporter, as follows:

"Q. Do you know how the girls working in your section learned of the meeting at which the union was organized?")

A. Yes, I do.

Miss Weyand: How did they learn that?

A. I told the girls.

Mr. Hogsett: That is objected to, unless the question is confined to witnesses offered by respondent who were working there in her section.

Trial Examiner Batten: Will you read the question again?

[fol. 5897] (Thereupon the last question was read by the reporter, as follows:

"Q. How did they learn that?")

A. How did the girls learn that?

By Miss Weyand:

Q. Yes.

A. I told them.

Q. Now, at that time how many rows of machines were in your section? A. How many rows?

Q. Yes.

A. They were clear across the room.

Q. That is from the west wall of the building to the east wall of the building?

A. Yes, there was a dividing line, an aisle.

Q. And you had rows of girls on each side of the aisle? A. I did.

Q. And was Ruby Clayton working in that section at that time? A. Yes, she was.

Q. And she was among the girls you told to go to the meeting?

A. Yes, she was working for me and I told all the girls at the same time.

Trial Examiner Batten: Well, the question is, was she one of the girls you told, Ruby Clayton?

[fol. 5898] A. Yes, she was.

Miss Weyand: Was Oma Lee Cooper working in your section at that time?

Mr. Reed: I make the same objection.

A. Oma Lee?

Miss Weyand: Yes, her name was Oma Lee Holloway.

Trial Examiner Batten: Well, Senator, I assume we may have the same arrangement we have pursued here all the time, a continuing objection if you so desire.

Mr. Hogsett: Yes, we do.

Trial Examiner Batten: In order that you don't have to object to every question, that will continue through with this witness. Of course, it will be necessary to renew it on the next witness.

Mr. Tyler: The same objection will be allowed for the intervener, as to this witness, I take it?

Trial Examiner Batten: Yes, that is correct. Let me say this, we will get started here pretty soon, I guess. You may have a continuing objection.

Now, that means to either the respondent or the intervener I am granting a continuing objection to Miss Weyand's examining this witness within the bounds of what I indicated that I thought was proper.

Now, if Miss Weyand exceeds the bounds, I of course would expect counsel to object, not upon the basis of my [fol. 5899] ruling, but upon the basis of my statement to Miss Weyand that I don't propose to go into all inclusive matters.

Mr. Hogsett: Yes, sir, that's right.

Trial Examiner Batten: You may proceed.

Miss Weyand: And your answer is true with reference to Oma Lee Cooper, is that correct, the same, that you told her among the other girls? A. Yes.

Q. And that is true as to Edith Dean, is that correct?

Mr. Reed: We object to that as leading.

Trial Examiner Batten: Well, of course, it would be. It would be more proper to state the question, rather than in that manner, I think, Miss Weyand.

By Miss Weyand:

Q. Was Edith Dean working in your section at that time? A. Yes.

Q. Was she among the girls that you told about the meeting? A. Yes.

Q. Was Ethel Riegel working in your section at that time?

A. Yes, I believe she was, but I am not just so sure; but I really think she was.

Q. And you think she was among the girls that you told of the meeting? A. Yes, I do.

Q. What time of day was that meeting held?

[fol. 5900] A. Well, I don't remember.

Q. Was it during working hours or after working hours?

A. Well, it was during working hours, but I don't remember the time, because we went down in our white aprons.

Miss Weyand: Were the girls in your section paid for the time they spent at that meeting?

Mr. Reed: I object to that as incompetent and immaterial, and not rebuttal.

Trial Examiner Batten: Well, I don't recall whether any of these witnesses were asked the question.

Miss Weyand: Yes, they all claimed it was after hours and on their own time.

Trial Examiner Batten: Well, you may answer, if you know.

A. What was the question?

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Miss Weyand: Were your girls paid for the time they spent at the meeting?

A. Yes, they were paid for the meetings.

Q. Did the girls know before they went to the meeting that they would be paid for the time they spent there?

Mr. Reed: Now, we object to that as incompetent and [fol. 5901] irrelevant, and manifestly not rebuttal, and calls for a conclusion.

Miss Weyand: I asked if she knew.

Trial Examiner Batten: Well, do you know?

Mr. Tyler: I object. The only way she could know would be hearsay.

Trial Examiner Batten: Well, of course, I don't think at this late date, Mr. Tyler, we will attempt to eliminate hearsay.

Will you read the question, please?

(Thereupon, the last question was read by the reporter, as follows:

"Q. Did the girls know before they went to the meeting that they would be paid for the time they spent there?")

Mr. Reed: How could she know that?

Trial Examiner Batten: The question is, did she know?

Mr. Stottle: The question is, did the girls know.

A. I don't remember that particular meeting, but after we had some meetings—

Trial Examiner Batten: But you were asked about this meeting, Mrs. Dorsey. Do you know about this one?

A. Yes.

Trial Examiner Batten: Do you know whether they knew in advance?

A. That they were going to be paid?

[fol. 5902] Q. Yes.

A. Well, this meeting, I don't remember if they knew, because there was quite a few meetings, and I don't remember just this meeting.

Mr. Reed: Wait a minute. I insist the witness had answered the question and then went on to make some comment, and I asked to have it stopped.

Trial Examiner Batten: Well, of course the comment, I don't think is harmful to anyone, her last phrase. You may proceed, Miss Weyand.

Miss Weyand: Did you ever tell the girls in your section they would be paid for time spent at meetings of the Donnelly Garment Workers' Union?

A. Yes, they were to be paid.

Mr. Hogsett: That is objected to as not rebuttal of anything.

Trial Examiner Batten: You may answer.

A. Yes, I told them they were to be paid.

By Miss Weyand:

Q. Do you remember how many meetings of the Donnelly Garment Workers' Union occurred during working hours? A. No, I don't.

Q. Was it more than one? A. Yes.

Q. How many do you think it was?

[fol. 5903] Mr. Reed: Well, I object to that, how many she thinks it was. She says it was more than one, but she doesn't know.

Miss Weyand: I will withdraw that question.

By Miss Weyand:

Q. State what is your best recollection as to the number of meetings held during working hours.

Mr. Reed: I make the same objection; it is not rebuttal.

Trial Examiner Batten: You may answer.

A. Well, I'll say — oh, 4 or 5 anyway.

By Miss Weyand:

Q. Were those the first 4 or 5 meetings of the Donnelly Garment Workers' Union?

A. Were they the first —

Q. (Interrupting) 4 or 5 in order, meetings following April 27?

A. I don't remember concerning that or the Loyalty League. We had meetings that way too.

Mr. Lane: I can't hear the witness.

A. I said I didn't remember whether it was Loyalty League meetings or the union meetings, but we had those meetings, but I don't remember.

By Miss Weyand:

Q. Do you remember the meeting at which the Donnelly Garment Workers' Union was formed and Mr. Tyler came, whether that was during working hours?

A. Yes, I remember that.

Q. Do you remember whether the next meeting of the Donnelly Garment Workers' Union was during working hours?

[fol. 5904] A. When was it?

Q. Whether the next one following the meeting at which the Donnelly Garment Workers' Union was organized was during working hours.

Mr. Réed: We object, because the witness already has said she couldn't tell which meetings were held, whether Loyalty League or Union.

Trial Examiner-Batten: The objection is overruled. Of course, this is a definite question, whether she does know whether the next one was held during working hours.

By Trial Examiner Batten:

Q. Do you remember, Miss Witness?

A. The next meeting?

Q. After the one at which it was formed, was it held during working hours, do you remember that?

A. No, I don't.

By Miss Weyand:

Q. Did you go to the meeting at which the Donnelly Garment Workers' Union was formed with the girls in your section?

Mr. Reed: Wait a minute. I object to that as leading and suggestive.

Trial Examiner Batten: Well, you may answer.

A. Yes, I went with my girls.

By Miss Weyand:

Q. Did you sit with any of the girls in your section at that meeting?

A. Well, yes, I did.

[fol. 5905] Q. Did the other instructors and thread girls go to that meeting?

A. Well, I'll say they did. We all were there.

Q. I just want what you know they did.

A. I can't say all of them, I don't know whether all of them went or not, but some of them went because I seen them.

Q. Had the employees raised a fund to pay Mr. Tyler a retainer fee prior to the meeting at which the Donnelly Garment Workers' Union was organized?

A. I don't remember.

Mr. Tyler: I object to that —

Mr. Hogsett: She said she doesn't remember.

By Miss Weyand:

Q. You mean you don't remember whether they raised one before that meeting or you don't remember whether or not it was raised at that time? What recollection do you have on the fees raised for Mr. Tyler?

A. The fees raised?

Q. Yes. What I was getting at, when you said you didn't remember, you mean you don't remember of one being raised before that meeting, is that what you mean?

A. Yes, I don't remember.

Mr. Lane: Now, I object to that and move to strike the answer out.

Mr. Hogsett: She says she doesn't remember; that was the answer.

[fol. 5906] Mr. Lane: Well, I am objecting to the form of the question, because it is cross-examination of her own witness.

By Miss Weyand:

Q. Had you heard of Mr. Tyler before you saw him at the meeting of April 27, at which the Donnelly Garment Workers' Union was formed?

A. No.

Mr. Tyler: I object to that as not rebuttal, incompetent, irrelevant and immaterial.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Trial Examiner Batten: You may answer.

A. Had I heard of him?

By Trial Examiner Batten:

Q. Yes, had you heard of Mr. Tyler?

A. No.

Trial Examiner Batten: Can you hear the witness, Mr. Lane?

Mr. Lane: Not very well. She ought to turn her chair a little.

Trial Examiner Batten: Miss Witness, will you speak a little louder, please?

A. All right.

By Miss Weyand:

Q. Did you attend meetings of the Donnelly Garment Workers' Union at any time after the first meeting?

A. Yes, I attended some of them.

[fol. 5907] Q. Did you wear your uniform to those meetings?

Mr. Ingraham: I object to that. It is not proper rebuttal.

Trial Examiner Batten: You may answer.

A. Some of them.

By Miss Weyand:

Q. Did you sit with any girls in your section at those meetings?

A. Yes, I usually did.

Q. Do you know whether the girls felt that they were not free to express themselves when instructors were present at the meetings?

Mr. Hogsett: Just a minute. We object to that for the reason it is not rebuttal, and for the further reason that it calls for a pure guess; it is worse than a conclusion, it is a pure guess, and asks the witness to read the minds of the girls and say whether she thinks they understood something.

Trial Examiner Batten: Well, Mr. Hogsett, I think it is exactly on a par with many questions that we had here in the last two weeks, in which witnesses freely expressed their opinions and conclusions about how everybody else in the plant felt.

Mr. Tyler: I don't agree with Your Honor. I think the question has been largely —

Trial Examiner Batten: If you will wait until I get through, Mr. Tyler.

[fol. 5908] Mr. Tyler: Very well.

Trial Examiner Batten: As a matter of fact, I don't believe I put any limit on — to be perfectly frank about it, I permitted the witnesses to say in answer to questions, "Well, how did the girls generally in the plant feel," why, some of the witnesses testified as to how the girls in general felt.

Mr. Hogsett: We stand on the objection as made.

Trial Examiner Batten: Well, I'll overrule the objection.

Mr. Reed: Well, I wanted to make — I think I can point out a distinction to you. I would like to do it. So many times —

Trial Examiner Batten: Well, I withdraw my statement on that. I thought Mr. Hogsett was ready to have me rule, so I did, but Senator —

Mr. Reed: (Interrupting) We introduced evidence that there was a state of disturbance, and of unrest at the

plant, and witnesses were permitted to testify how the girls acted, and that there was a general discussion in regard to the conditions, and danger which they might be in.

Now, that was a mere proof as to a general fact and could be proven in no other way. Now, the questions that are now sought to be propounded and answered are of an entirely different character. This goes to the question of whether these girls were coerced or driven by their employer, or whether they were afraid of their employer. [fol. 5909] Now, that is a concrete thing, and is the very essence of the charge here.

Trial Examiner Batten: Many of those witnesses, in fact every one of them, were asked — I don't remember whether it was Mr. Ingraham, but I am sure Mr. Lane asked many of those witnesses about coercion, influence, not only as to themselves, but whether they knew about whether anyone else was.

Mr. Tyler: Mr. Examiner; I think if you will review the testimony you will find the questions asked in the evidence, "Did you feel any sense of compulsion, did you know of any incidents of any girl being ordered or told, or any girl saying she was under compulsion, did you see any outward sign of compulsion," but they have not been asked, "Do you think those other girls were under compulsion." And that question is obviously invading the province of the Court, and obviously improper, and hasn't been part of our examination.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Q. Do you know whether the girls felt that they were not free to express themselves when instructors were present at meetings?")

Mr. Langsdale: If the Examiner please, Mr. Tyler is like a great many lawyers who leave a hearing and then come back, and not know what went on in their absence.

[fol. 5910]. Mr. Tyler: I have had access to the daily records.

Mr. Langsdale: Yes, but that hasn't told you much. Mr. Lane and Mr. Ingraham frequently said, "Did you read the article of March 17th?" "Yes." "What effect did it have on you," and the girl would say, and "What effect did it have on the other girls in the plant," and I objected very strenuously to the form of that question, because it asked the girl to speculate, and so forth, just as now; and if they were permitted to answer, "It made them all mad, it made them all fearful," and that kind of a question was asked and answered, not once, but at least 50 times in this record; and if Mr. Tyler had read the record carefully, he would have found that out.

Now, If the question is improper now, it was improper then. The Examiner will remember, of course, that frequently they got an answer that it made them all mad.

Now, this question is based upon, "If you know." If she does know, she probably has some basis for her knowledge.

Trial Examiner Batten: Will you read the question, please?

Mr. Tyler: Mr. Examiner, the situation Mr. Lane called attention to is plainly distinguishable; outward signs of anger may be testified to by a witness, but inward states of mind that don't express themselves, like anger and intoxication, cannot. The question is whether this witness knows how the girls felt, if they were free to speak; it is [fol. 5911] improper. You can't pass on this question, but on the other, I think it is admissible on the ground of suggestion.

Trial Examiner Batten: Will you read the question.

(Thereupon the last question was read by the reporter, as follows:

"Q. Do you know whether the girls felt that they were not free to express themselves when instructors were present at the meetings?")

Trial Examiner Batten: You may answer.

A. No, I think they felt that way.

By Miss Weyand:

Q. Did any girl ever tell you she felt that way?

A. Well, I have heard comments on that, yes, several ones.

Q. And those comments were made to you by operators? A. Yes.

Q. Do you remember any specific comment you could tell us about?

Mr. Reed: Well, we object to that as incompetent and immaterial, and not rebuttal.

Trial Examiner Batten: You may answer.

A: Yes, one time one of my girls wanted to know why we didn't go to meetings, and so I said—well, I said, "You girls don't feel free—"

Mr. Ingraham: Just a minute—

Trial Examiner Batten: (Interrupting) Wait until we [fol. 5912] get the answer.

Mr. Ingraham: Well, she is testifying about matters that occurred after July, 1939; by what she was saying, that is plain.

Trial Examiner Batten: Well, did you mention any date?

A. No, I didn't.

Trial Examiner Batten: I didn't think so.

Will you read the answer thus far?

(Thereupon the last answer was read by the reporter, as follows:

"A. Yes, one time one of my girls wanted to know why we didn't go to meetings, and so I said—well, I said, 'You girls don't feel free—'")

Trial Examiner Batten: Complete your answer.

Mr. Langsdale: Let her finish her answer.

Mr. Lane: I object to the question—

Trial Examiner Batten: (Interrupting) Just a minute, Mr. Lane. The question is being answered now. Please

either object at the end of the question or at the end of the answer. Let's don't interrupt the witness on every question.

Mr. Lane: May I state my objection for the record now?

Trial Examiner Batten: No, not now. I want the answer completed and then you may state your objection.

A. Well, I told her the girls didn't feel free to talk and to express their grief, and things like that, and she said, "Well, that's right, but it wouldn't make any difference to [fol. 5913] me if you were there, I would just say what I wanted to anyway."

Mr. Reed: I move to strike the answer out as not responsive. It is incompetent and immaterial.

Trial Examiner Batten: It may stand.

Mr. Ingraham: I would like to ask at this time a preliminary question as to whether or not she is referring to matters that occurred after July, 1939.

Trial Examiner Batten: Well, Mr. Ingraham, I assume that all you attorneys are proceeding on the basis that it is prior to July, 1939.

Now, just a minute; you shook your head there, Senator.

I can turn back here to several questions Mr. Ingraham asked without any time specified. Let's don't all of a sudden get so technical about everything; and furthermore, I want to say now that I want one counsel from each party to make the objections, from now on, if we are going to have as many objections as we have had thus far.

Now, I don't consider, Mr. Ingraham, that this question of bringing up the time—if you will wait until Miss Wey and has an opportunity to bring out the further facts concerning this conversation, as you did on several occasions.

Mr. Ingraham: Well, if I recall right, when the question came up when I was examining a witness, you immediately turned to the witness and inquired—

Trial Examiner Batten: (Interrupting) No; no, I have [fol. 5914] several of them marked on here where I didn't.

but you, later brought it out. Now, give Miss Weyand the same opportunity.

—Mr. Ingraham: Well, I object to the denial of my request.

Mr. Reed: I would like to say to the Examiner that I beg his pardon for having indulged in a shaking of my head. I didn't say a word, and I want you to know it is not meant to be offensive.

Trial Examiner Batten: Not a bit, Senator, not in the least.

Now, Mr. Lane, do you have an objection to the question?

Mr. Lane: Mr. Ingraham has stated the same ground of an objection, but this witness has no means of knowing we are talking about a period prior to July 15, 1939, because the question hasn't brought out the time specified.

Trial Examiner Batten: You may proceed, Mr. Lane.

Mr. Lane: My objection was, there is no limitation of time put on it, therefore it is improper.

Trial Examiner Batten: You may proceed, Miss Weyand.

Miss Weyand: When did you cease going to meetings of the Donnelly Garment Workers' Union?

Mr. Ingraham: I object to that question. It is not proper rebuttal.

Trial Examiner Batten: You may answer.

A. Let's see. It was in 1939.

By Miss Weyand:

Q. Did you attend meetings regularly from the time it was formed until 1939?

[fol. 5915] A. No, I didn't.

Q. What meetings did you attend? A. My meetings?

Q. Yes.

A. Well, a few, but I don't remember all of them.

Q. And you didn't attend them regularly after—

A. (Interrupting) After it was formed?

Q. After it was formed? A. No, I didn't.

Q. Is there any way you could tell us which meetings you went to and which you didn't go to?

A. No, I don't think so.

Q. Do you remember whom you had this conversation with? A. Yes, I do.

Q. Would you mind telling us the name of the girl?

Trial Examiner Batten: Will you determine the date, Miss Weyand?

Miss Weyand: That is what I am going to do.

A. It was Nina Gilardi.

By Miss Weyand:

Q. Do you know when the conversation occurred?

A. When?

Q. Yes.

A. No, I don't remember the day or anything about that. I remember that remark. The question was asked me [fol. 5916] and I answered as best I could.

Trial Examiner Batten:

Q. Well, do you remember, Miss Witness, whether it was before July, 1939, or after?

A. Before 1939?

Q. Yes or after? A. Oh, yes, it was before.

Q. Before July, 1939, sometime? A. Yes.

By Miss Weyand:

Q. Did you ever hear of any other girls making any comments about instructors attending meetings?

A. Well, I have heard some, but I can't recall their names. I just heard comments and I just passed them up, I didn't hardly pay a lot of attention to it, you know.

Q. Did you regard yourself as a supervisory employee?

Mr. Reed: We object to that as calling for her conclusion and not for facts, and not rebuttal.

Trial Examiner Batten: She may answer it.

A. Yes, I did.

By Miss Weyand:

Q. Why? A. Why?

Q. Yes.

A. Well, because we instructed the girls and we sort of led them right and wrong, and told them what they should do and like that.

Q. Could you state specifically what you were told by [fol. 5917] any representative of the company as to your status as a supervisory employee?

Mr. Ingraham: I object to that unless it is limited as to time.

Mr. Reed: And it is not rebuttal.

Trial Examiner Batten: You may answer.

A. Yes, at one time there was a person told us that we should carry ourselves as their superior, and that they sort of held us on a pedestal, and we could just well, shouldn't be just one of them, should be up above them and carry ourselves that way.

By Miss Weyand:

Q. Who was that?

A. Elizabeth Gates Reeves.

Q. Did you know whether the girls in your section regarded you as a supervisory employee?

A. I think they did.

Mr. Tyler: I object to that as calling for a conclusion. She don't know how the girls regarded her without seeing in their minds.

Trial Examiner Batten: It may stand.

By Miss Weyand:

Q. Did you go over the pay roll cards weekly with the office prior to July 15, 1939? A. Yes, I did.

Q. Was it part of your duty to recommend transfers of girls from one section to another?

[fol. 5918] A. What do you mean? How transfers?

Q. When one of the girls was moved over from one section to another, did some representative of the company discuss with you whether or not the girl could be transferred?

A. Well, Mrs. Wherry talked to the instructor, and if we could give her up and it wouldn't cripple the section and help this other section out, then we would help each other out that way.

Q. What effect on a girl's earnings did the instructor's power to divide the work have?

Mr. Reed: Pardon me. I couldn't hear the question.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Mr. Reed: We object to that as not rebuttal, incompetent and immaterial, and a mere general question that could not be answered.

Trial Examiner Batten: You may answer.

Mr. Reed: Because the effect might be a certain way in one instance, and might be another way in another instance.

Trial Examiner Batten: You may answer.

A. Well, in my instance I knew that an instructor could divide the work equally, or else she could cripple a girl if she wanted to, if that is what you want to know.

Trial Examiner Batten: What do you mean by that?

A. Well, I mean cripple, like there was a whole lot of [fol. 5919] little bitty bundles, and if the instructor would give that to a particular girl, that little bitty bundle, it takes practically as long to open up a small bundle as it does a large bundle, and they can go right through a large bundle—I won't say in half the time, I don't know—but they can go right through a bundle real quick, and they make more money on big bundles.

Mr. Reed: I move to strike the answer out as not responsive, and it is not rebuttal.

A. It is so, though.

By Miss Weyand:

Q. Was the thread girl in charge during the absence of the instructor?

A. Well, I guess she was. Usually my girl, when I had one, I put her in charge.

Q. When you had a thread girl did you talk over with her assignments of work or division of work?

A. Yes; always.

Q. Who was your thread girl in March and April, 1937?

A. Well, I believe it was Vera Marshall.

Mr. Reed: Our objection, I suppose, stands to all these questions of this kind?

Trial Examiner Batten: Yes.

By Miss Weyand:

Q. Did the duties of an instructor change at any time prior to July, 1939?

A. What do you mean, change?

Q. Was there a change in your responsibility and in [fol. 5920] your work at any time prior to July 15, 1939, or did you do the same sort of work from the time you became an instructor until July 15, 1939?

Mr. Tyler: Just a minute. The first part of the question asked I object to, because as I understand it it is referred to as general; and the last part referred to this lady personally.

Trial Examiner Batten: Well, the question to this witness is whether or not there was any change in your duties, or responsibilities, prior to July, 1939; in other words, from the time you started to work as an instructor to July, 1939, was there any change in your duties or responsibilities that you recall?

Mr. Tyler: Now, may I have the question read, please?

Trial Examiner Batten: Do you mean my last statement?

Mr. Tyler: No, Miss Weyand's question.

Trial Examiner Batten: No, but I am restating it. I just stated it. Will you read the question I just stated, Mr. Reporter?

(Thereupon the question asked for was read by the reporter, as follows:

"Well, the question to this witness is whether or not there was any change in your duties or responsibilities prior to July, 1939; in other words, from the time you started to work as an instructor, to July, 1939, was there any change in your duties or responsibilities that you recall?")

[fol. 5921] A. No, I don't think so.

Mr. Tyler: I move it be stricken out because the evidence is the change was made after 1939.

Mr. Langsdale: What was that motion? Will you read it, please?

(Thereupon the last motion was read by the reporter.)

Mr. Langsdale: I ask that the motion be stricken out for the reason there isn't any credible evidence there ever was any such a change at any time.

Trial Examiner Batten: The motion to strike is denied.

Let's proceed.

By Miss Weyand:

Q. Do you remember a meeting of employees at which Mrs. Reed spoke in March 1937?

A. A meeting?

Q. Yes.

A. Yes.

Q. How did you learn of that meeting?

A. Well, it was either by telephone or by Mrs. Wherry, like I told you before.

Q. Do you know how the girls working in your section learned of that meeting?

A. Yes, I told them; I told them there was going to be a meeting.

Q. Do you know who called the meeting?

A. You mean called me on the phone?

[fol. 5922] Q. Yes, or called the meeting. Did you ever hear who arranged the meeting?

A. No, I did not.

Q. What time of day was that meeting held?

A. I'm sorry, but I don't remember.

Q. Was it during working hours or after?

A. Well, I know it was that, yes; it was during working hours, but I don't remember the time.

Q. Did the girls in your section time out before going to the meeting?

A. No.

Q. Did the girls in your section return to the section after the meeting?

A. Yes.

Q. Did the girls in your section sit together at the meeting?

A. Some of them did and some of them didn't; I don't know. We didn't all sit together.

Q. Did you sit with some of them at the meeting?

A. Yes.

Q. Were the girls in your section paid for the time they spent at that meeting?

Mr. Reed: I object to that because this witness couldn't possibly know, and because it is not rebuttal.

Trial Examiner Batten: You may answer.

[fol. 5923] A. Yes, they were paid, because it was on the cards when we went over them, and we saw it.

Mr. Reed: You saw all the cards?

A. I saw my girls' cards.

Mr. Reed: You did?

A. Yes.

Trial Examiner Batten: Just a moment, please. You answer the questions that Miss Weyand asks you, please.

A. Well, I was telling him what I knew.

Trial Examiner Batten: Senator, if you will wait a few moments to ask your questions.

Mr. Reed: I stand corrected, sir.

Trial Examiner Batten: Miss Weyand.

By Miss Weyand:

Q. And did you see it at the time of the meeting at which the Donnelly Garment Workers' Union was organized?

A. See it on the cards?

Q. Yes.

A. Well, not that certain way; it was just added on there, and it just said they were allowed that for the meeting, that allowance was made for the meeting.

Q. And you testified they were paid for the time they spent at the meeting at which Mrs. Reed spoke?

A. Yes, they got paid.

Q. And at the meeting at which the Donnelly Garment [fol. 5924] Workers' Union was organized?

A. Yes.

Q. Now, I wanted to know if you saw the same entries on their cards for that meeting as you saw on the cards for this meeting at which Mrs. Reed spoke.

A. Well, at all meetings I saw it.

Q. What did Mrs. Reed say at that meeting, if you recall?

Mr. Hogsett: Now, if the Court please, I now respectfully object, that that is not rebuttal. Now, I put it to you, if that is rebuttal, anything is. What becomes of your ruling that you are going to invoke the rules as to rebuttal, if you permit this reinvasion of the case in chief?

Trial Examiner Batten: Well, of course, Mr. Hogsett, Mrs. Reed testified here about what she said in that meeting.

Mr. Hogsett: Exactly, in defense of the—

Trial Examiner Batten: (Interrupting) Each one of the girls who testified, testified very definitely about what she said at the meeting. Now, my only point is this: I am not saying, you understand, that it is or is not in this discussion. All I am saying, if that is not, then it seems to me that few, if any, questions which Miss Weyand has thus far asked are proper, because they all pertain, as I recall them, to the testimony which these last few witnesses have given. In other words, my only point is: what is the distinction between this and some of those other questions?

[fol. 5925] Of course, I understand you object to all of them.

Mr. Hogsett: Yes, that's right.

Trial Examiner Batten: And you have. But the thing I don't know is: what is the distinction between these and some of those other questions?

Mr. Hogsett: Well, I can suggest this much, now, there is some toehold connection with our case when Miss Weyand asks whether this witness told Ruby Clayton to go to this meeting. That is in one category. But here she just

goes back to the March 18 meeting, as an original proposition.

Trial Examiner Batten: Miss Weyand, how about that?

Miss Weyand: I wanted to identify the meeting that this witness remembers.

Trial Examiner Batten: Well, if that is your question,—

Mr. Hogsett: (Interrupting) But she is asking what Mrs. Reed said.

Miss Weyand: Yes, and if she tells what Mrs. Reed said at this meeting, it fixes it in her mind.

Mr. Hogsett: That is a very indirect way to go about it.

Trial Examiner Batten: You mean to tell me you asked that for the purpose of having the witness identify this meeting?

Miss Weyand: When we spoke of it, she generally, in my discussion with her, referred to it in that fashion, the meeting when such-and-such a thing was said.

[fol. 5926] Trial Examiner Batten: Then, it seems to me that unless you want her to say what Mrs. Reed said, you would accomplish the same thing by asking the witness: "Do you recall the meeting in which Mrs. Reed spoke in March 1937?"

Miss Weyand: I would like to have her answer the question.

Trial Examiner Batten: What question?

Miss Weyand: What she recalls Mrs. Reed saying at the meeting which she is now describing and speaking of.

Mr. Hogsett: And we object to that as not rebuttal; and I say to you sincerely that if that question is rebuttal, if an answer to it is rebuttal, then we might as well forget

Trial Examiner Batten: (Interrupting) Mr. Hogsett, can you show me the difference between that and some of those other questions?

Mr. Hogsett: Didn't I suggest one? I again suggest there is some toehold for the contention that it rebuts what Ruby Clayton says, to ask this witness what she told Ruby

Clayton; I can see some possibility in that. But there is utterly none in saying to this witness, "Will you please tell what Mrs. Reed said at that meeting," that that rebuts what Ruby Clayton or anybody else says. It is just going into the plaintiff's case in chief again; and if that is it, why, then we might as well know it.

Mr. Langsdale: If the Examiner please, I would like for Mr. Hogsett to tell the Examiner why the respondent [fol. 5927] was permitted at this hearing to prove what Mrs. Reed said or didn't say. We had some witnesses as to what she said at the meeting, in the 1939 hearing, they had evidence she didn't say that, they even produced a document which they said was a transcript of Mrs. Reed's speech, made by Mrs. Frances Strine; so if that matter was a closed book so far as the Board is concerned, and the International is concerned, then it was a closed book so far as the respondent and intervenor were concerned. So why did they open it up again?

Certainly it was not in the purview of the remand for them, if it was not in the purview of the remand for us.

Mr. Hogsett: The simple answer is that the subject was in the offer of proof which had been rejected.

Trial Examiner Batten: Well, of course, Mrs. Reed also testified at length about it.

Mr. Hogsett: That's right, purely as a defensive matter.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"What did Mrs. Reed say at that meeting, if you recall?")

Trial Examiner Batten: You may tell us.

A. Well, I remember Mrs. Reed saying that she didn't—that she wasn't going to have any Dubinsky or any 'sky to tell her how to ruin her business, and if we would stand by [fol. 5928] her she would stand by us. Now, I didn't blame her.

Mr. Reed: Now, I want to make an observation, because I want to get this clear. As I understood, Mrs. Reed's testimony was admitted here because she could not be at the last trial, and it was admitted on the same basis as though she had testified at the last trial; and the prosecution went into all that took place at that meeting. Her testimony there was merely cumulative, and admitted on the basis I have said.

Now, if you are to take the view that because she testified out of order, that that opens that whole question up again, then we might as well say the whole case is open.

Trial Examiner Batten: Well, Senator, I didn't make any such statement as that.

Mr. Reed: That is what I didn't understand.

Trial Examiner Batten: No statement such as you have just stated.

Mr. Reed: That the whole case was open?

Trial Examiner Batten: No. I think you just stated something about Mrs. Reed, didn't you?

Mr. Reed: Well, I didn't follow it. I am trying to—

Trial Examiner Batten: (Interrupting) Pardon me, I interrupted you. Proceed.

Mr. Reed: I was through. I say again that that testimony was admitted, and I understood it, as though it had [fol. 5929] been delivered at the last trial, and so I assumed, because Mrs. Reed was not able to come and testify at that time, that it was simply additional evidence received as though it had been offered at the last trial.

Now, if, because she testified to various things, that permits rebuttal, although the subject matter had been gone fully into, I don't know where the limitation is going to be.

Trial Examiner Batten: I simply stated to Mr. Hogsett that I see no distinction between this question and any of the others which I have permitted with respect to these witnesses who testified on the basis of the offers of proof.

So you may proceed, Miss Weyand.

Mr. Reed: Now, let me say this, of course we claim that this question cannot be justified by any ruling you have heretofore made on this same line of questions, because we insist your ruling is erroneous on those, and we can't bury one error under a mass of what we consider other errors.

Trial Examiner Batten: That is true, Senator, and it makes it quite impossible for you to distinguish between the two; you claim they are all wrong, therefore it is impossible to distinguish between this and the others, if they are all in error.

You may proceed, Miss Weyand.

By Miss Weyand:

Q. I hand you I. L. G. W. U. exhibit No. 10, which appears in the Circuit Court of Appeals record at page [fol. 5930] 5961, and following, and also at 5375 and following, and ask you if that was circulated through your section.

A. Well, I remember this going through, but I didn't pass it through.

Q. Did you know it was going through at the time it went through?

A. Well, I just sort of seen it, because we just wasn't supposed to know, and I didn't pay any attention to it, a whole lot, I just seen something was going through the section.

Mr. Reed: Can we have the answer read?

Trial Examiner Batten: Will you read the answer?

(Thereupon the last answer was read by the reporter.)

Trial Examiner Batten: The question to you was, did you know this was going through your section?

A. Why, yes.

Trial Examiner Batten: That is the question.

A. I knew it, because I couldn't help but see it, and afterwards I signed it myself.

Mr. Tyler: I move the first part of the answer be stricken.

Trial Examiner Batten: The first part of the answer may be stricken.

Mr. Tyler: That part about "We wasn't supposed to know," be stricken.

Mr. Langsdale: The International objects to that being stricken, because that may be open and subject to elucidation.

[fol. 5931] Trial Examiner Batten: Elucidation before I get the information she may make on her other statement, Mr. Langsdale.

You may proceed, Miss Weyand.

By Miss Weyand:

Q. Why did you say you weren't supposed to know it went through your section?

A. Why did I say that?

Q. Yes.

A. Well, somebody told me that we weren't supposed to have anything to do with it.

Q. When you say "we weren't supposed to have anything to do with it," whom are you referring to?

A. Well, just the instructors; they mentioned the instructors.

Mr. Reed: Now, I move to strike out the answer of the witness as being pure hearsay, it is incompetent and immaterial, and not rebuttal.

Trial Examiner Batten: It may stand.

By Miss Weyand:

Q. Do you remember when you signed it?

A. No, I don't remember the date.

Q. Was it the same day the girls in your section signed it? A. No, it was afterwards.

Q. I ask you to look at the first name which appears on page 5974 and 5388, and ask you whether that is your signature? A. Yes, it is.

Q. Do you recall anything you were told at the time [fol. 5932] you signed it?

A. Well, yes, I recall that I was told that it was for the cornerstone of her new building, and Mrs. Reed wanted the instructor's name on it.

Mr. Reed: Now, we move to strike that out as mere hearsay, and as not rebuttal.

Trial Examiner Batten: Who told you that?

A. I can't remember who told me that.

Trial Examiner Batten: Do you have any recollection at all who brought it up to you at the time you signed it?

A. Well, it kind of seems like it was Mr. Wherry.

Mr. Reed: Now, I move to strike that out because that is mere speculation, manifestly.

Trial Examiner Batten: It may stand.

By Miss Weyand:

Q. Were you a member of the Loyalty League?

A. Yes, I was.

Q. Who formed the Loyalty League?

A. Who formed it?

Q. Yes. A. Mrs. Gray.

Q. What was Mrs. Gray's position at that time?

A. She had charge of the outlet store.

Mr. Reed: Our objection stands for this line of questions?

Trial Examiner Batten: Yes.

[fol. 5933] Mr. Hogsett: Would Miss Weyand suggest anything that this rebuts? What does it rebut? Haven't we completely lost our moorings?

Trial Examiner Batten: You mean the question about the Loyalty League?

Mr. Hogsett: Yes.

Trial Examiner Batten: Of course, all those other witnesses have testified about the Loyalty League.

Mr. Langsdale: Mrs. Reed testified—

Trial Examiner Batten (Interrupting): On the first one or two questions, I don't know as I can determine what the purpose of it is.

Mr. Langsdale: Mrs. Reed testified that Mrs. Gray was just a clerk in the store. It certainly is rebuttal.

Trial Examiner Batten: You may proceed.

By Miss Weyand:

Q. Did you attend meetings of the Loyalty League?

A. Yes, I did.

Q. What time of day were those meetings held?

A. That I don't remember the time of day.

Q. Were they during working hours or after working hours? A. During working hours.

Q. Were the girls in your section paid for the time they spent at those meetings?

A. Well, like I said before, they were paid for all meetings.

[fol. 5934] Q. How were the girls in your section notified when a Loyalty League meeting was called?

A. The same way; by me.

Q. And how did you learn of it?

A. Like I say, either by telephone or Mrs. Wherry, or someone called up.

Q. Did you know Sylvia Hull?

A. Yes, I knew her when I seen her.

Q. Do you know what floor she worked on in April 1937?

A. I don't remember that date, I don't know what you have reference to—oh, in 1937—let's see.

Q. The last day she worked for the Donnelly Garment Company, do you know what floor she was working on?

A. Oh, yes, it was on eight.

Q. Where was her machine located on the eighth floor?

A. Well, I can't tell you exactly where her machine was located; but it was in that corner, in the east and south corner of the section, but I don't remember where her machine was.

Mr. Reed: Now, we make the objection that all this is put in about Sylvia Hull in the case in chief by the prosecution, and that this is not rebuttal.

Miss Weyand: Those are purely preliminary questions, and the further questions that I have, I can identify as strictly rebuttal.

[fol. 5935] Trial Examiner Batten: Of course, if they are preliminary, all I can say about the Senator's objection is:

I think we discussed Sylvia Hull and May Fike, and at that time Mr. Langsdale took the position that the Senator does now, that that had all been gone over before, and it was a closed book; so apparently, as I have frequently said, thus far in the hearing we haven't yet found any one matter on which any two lawyers seem to agree, but if you want to proceed—if these are preliminary questions, Miss Weyand, you proceed.

By Miss Weyand:

Q. How many doors into the eighth floor were there at that time? A. How many doors?

Q. Yes.

A. You mean entrances?

Q. Yes.

A. That we came in?

Q. Yes.

A. Well, there was one, and there was the elevators.

Q. Now, where were those located?

Mr. Reed: I submit that that is not rebuttal, and that whole question; the description of the premises, has been gone into.

Trial Examiner Batten: You may answer.

Mr. Reed: We simply are going over the same ground we went over last week.

[fol. 5936] Trial Examiner Batten: You may answer.

A. The door we usually came in was the north—the north and east of the building, and the elevator doors were north and west.

By Miss Weyand:

Q. Which elevators are you speaking of there?

A. The elevators on the eighth floor.

Q. In the northwest corner, are you speaking of passenger elevators or the freight elevators?

A. No, they are freight; the passengers are in the lobby outside of the door.

Q. And that is in which corner of the building?

A. That is north and east.

Q. And the only other means of getting to the eighth floor is by the freight elevators which were in the northwest corner, is that correct?

A. Yes, that's right.

Q. Now, is there a stairway anywhere? A. Yes.

Q. Where does that stairway enter the eighth floor?

A. Well, the stairway enters from the hall by the elevator, the north and east.

Q. So you have to come through the door that leads out to the passenger elevators, to come—

A. (Interrupting) To get to the stairs?

[fol. 5937] Q. To get to the stairs, is that correct?

A. Yes.

Q. So the only way any persons can come to the eighth floor is through the door that leads to the passenger elevators, and the stairs, or by the freight elevators, is that correct?

A. That's right, unless they want to climb the exit.

Q. And where is the exit?

A. West and north.

Q. And by "exit" you mean what?

A. The fire escape.

Q. Are there any rooms or walls on the eighth floor?

A. Any what?

Q. Rooms cut off of the eighth floor, or walls, or partitions dividing sections, or is it just one open floor?

Trial Examiner Batten: One big room?

A. Just one big room.

By Miss Weyand:

Q. And your section at that time was right in front of the passenger elevators and the freight elevators, isn't that right?

A. That is correct.

Q. There was no other section between your section and the door and the elevators?

A. No.

Q. Do you remember the last day that Sylvia Hull worked at the Donnelly Garment Company?

[fol. 5938] A. No, I don't remember the last day. I remember—yes, it was her last day that time.

Mr. Reed: I can't understand the witness.

Trial Examiner Batten: Will you read the answer, please?

(Thereupon the last answer was read by the reporter.)

Miss Weyand: Do you remember what happened that day?

A. Well, there was just a commotion and girls going through the section and around; I didn't go over myself.

Mr. Reed: I move to strike out the answer as not rebuttal.

(Trial Examiner Batten: Miss Weyand, are you still on preliminary questions?

Miss Weyand: No. I think this is rebuttal. We had several girls in her section who claimed not to have heard or seen anything at that time, and I wish to show by this witness what she said and heard, without going over, and I will also go into—

Mr. Reed: I thought that was part of their case in chief.

Trial Examiner Batten: Just a minute, Senator. My question to you was: are these still preliminary questions?

Miss Weyand: No, these aren't preliminary questions. This is the essence of what I consider the rebuttal in the matter. I have further questions, however, in rebuttal to the witness.

Trial Examiner Batten: Will you read the last question and answer, please?

[fol. 5939] (Thereupon the last question and answer were read by the reporter, as follows:

"Q. Do you remember what happened that day?

"A. Well, there was just a commotion and girls going through the section and around; I didn't go over myself.")

Mr. Reed: Now, I would like to go back to this question that Miss Weyand said was preliminary. I don't think she has in any way connected it up with anything. Yet she was allowed to get an answer that may and may not be important, on the ground that she was asking a preliminary question. I didn't know, when she asked the question, what she was going into was preliminary.

Miss Weyand: I said I had not finished developing the testimony.

Trial Examiner Batten: Well, you may proceed with your questions.

By Miss Weyand:

Q. Do you know what caused the commotion you spoke of, what it was about?

A. Just only by hearing what some of the girls talked about, what was in the paper, that she was a union girl and they weren't going to have her there.

Q. Did girls from your section go over to Sylvia Hull's machine?

A. No, I am sure they didn't, but I don't know for sure, because I told the girls, I just said, "Well, I wouldn't go [fol. 5940] over, I would just stay at my machine." I told some of my girls that, some of them might have gone over, but I don't think so.

Q. Did people come up to the eighth floor at that time from other places?

Mr. Reed: Now, I make the objection to that that it has all been gone over, it is not rebuttal, and it is not a follow-up on any preliminary question.

Trial Examiner Batten: Well, do you know whether people came up from other floors or not?

A. No, I don't remember any of the other girls in the other sections coming up. I can't remember that.

Miss Weyand: Did you see Miss Blodgett there?

Mr. Reed: Pardon me, I couldn't hear the question at all.

Trial Examiner Batten: Will you read it, please?

(Thereupon the last question was read by the reporter.)

Trial-Examiner Batten: You may answer.

A. Yes, I believe I saw Miss Blodgett there, because this Sylvia, when they brought her through the section and to the door, she was crying, and Miss Blodgett had her with her.

By Miss Weyand:

Q. Did the Loyalty League continue to exist after the Donnelly Garment Workers' Union was formed, so far as you know?

A. Well, I think it did, but there wasn't very much to it. [fol. 5941] Q. What did you know of its activities after that?

Mr. Reed: I move to strike out the last part of the previous answer as not responsive.

Trial Examiner Batten: It may stand.

By Miss Weyand:

Q. When you said there wasn't much to it, what did you mean?

A. I mean it kind of died down, I didn't hear much about it.

Q. Did the girls in your section use the department phones to make telephone calls?

A. No.

Q. What do the words "department phones" mean?

A. Inside phones, to call from one section to the other or from one floor to the other.

Q. What telephones could the girls use?

A. The outside phones, which was on seven, and there was one in the lobby, several phones around.

Q. Could the girls get up and go to the phone at any time during working hours, without asking your permission?

A. Well, they didn't, they usually asked my permission.

Q. What are i. d. m.'s?

A. Well, i. d. m.'s, I always said, "I demand motion," that is the way I thought it was.

Mr. Hogsett: "I demand motion"?

A. Yes, you wanted action. When you got one of those i. d. m.'s you wanted to do something about it.

[fol. 5942] By Miss Weyand:

Q. When the girls passed notes in the section, were those notes called i. d. m.'s?

A. Well, they were all referred to as i. d. m.'s.

Q. If a girl passed a note to a friend?

A. No, no note.

Q. They weren't called i. d. m.'s?

A. No, they were just notes.

Mr. Hogsett: No motion was demanded on those occasions?

A. I don't think so.

Miss Weyand: Did those girls ever use their machines for family sewing?

A. They did not, but they sometimes did.

Trial Examiner Batten: Will you read the answer?

(Thereupon the last answer was read by the reporter.)

A. On the sly we will call it.

Miss Weyand: Do you know of any girl ever being reprimanded for using a machine—

Mr. Reed: (Interrupting) I object to that—

Trial Examiner Batten: You objected in the middle of the question, Senator.

Mr. Reed: I didn't think I did.

Trial Examiner Batten: The reporter just told me he didn't get it because of your interrupting. Now, Mr. Reporter, will you read what you have?

(Thereupon the last question was read by the reporter.)

[fol. 5943] A. No, not one particular girl. I just heard of it, not any of my girls.

By Miss Weyand:

Q. When you said they weren't supposed to, what did you mean by that?

A. Well, they were just not supposed to take up company time in sewing for themselves.

Q. Were they free to use the machines after company time for their own sewing?

Mr. Reed: One moment. Now, I object to that as incompetent and immaterial, and not rebuttal; it is all part of the case in chief.

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Trial Examiner Batten: Well, I think the first time in this hearing, Senator, that I have any recollection of that

question coming up, was in Mrs. Reed's testimony. I don't recall prior to that time it was ever mentioned.

Mr. Reed: Well, I think you are mistaken.

Trial Examiner Batten: You may read it, please.

(Thereupon the last question was reread by the reporter.)

Trial Examiner Batten: You may answer.

A. Were the girls free?

Trial Examiner Batten: Yes, after working time, after they quit work could they go back and use the machines if [fol. 5944] they wanted to?

A. No, not in the factory.

Miss Weyand: That is all the questions I have.

Trial Examiner Batten: Mr. Langsdale.

[fol. 5945] Cross-Examination

By Mr. Langsdale:

Q. Who was Mrs. Wherry?

A. I beg your pardon?

Q. Who was Mrs. Wherry, whom you have mentioned in your testimony?

A. Who was she?

Q. Yes.

A. Well, we considered her as the head of the instructors.

Q. Who was Miss Blodgett?

A. Our nurse.

Mr. Langsdale: That's all.

Cross-Examination.

By Mr. Hogsett:

Q. Mrs. Dorsey, you began with the company in October 1925, I believe you said?

A. That's right.

Q. Now, what was your first work then?

A. It was an embroidery machine operator.

Q. How long did you continue in that work?

A. Around a year or so. It might have been 2 years. I don't remember the exact time.

Q. That would take it up to about 1927 or 1928?

A. Yes.

Q. What section were you in then?

[fol. 5946] A. Let's see. I was in— It was Mrs. Allison's section.

Q. I mean, the number?

A. I don't remember the number.

Q. What floor were you on?

A. We were in the Coca-Cola building at that time.

Q. From 1927 or 1928 on what was the next work that you did?

A. Instructing.

Q. For how long were you an instructor?

A. Up until March this year.

Q. Up until March of 1942?

A. Yes.

Q. Now, that would be an interval of— Between 1942, as the end, and 1927, we will say, as the beginning, that would be 15 years that you were an instructor; is that right?

A. Close to that.

Q. Yes. Of course I am not trying to pin you down to that, because you did say 2 or 3 years.

A. Yes. I wasn't there very long until I became—

Q. —an instructor?

A. That's right.

Q. In what section did you first work as an instructor? Give me the number.

A. I don't think it had a number. It was just a little group of embroidery machines. We didn't have very many [fol. 5947] at that time. I taught girls the embroidery work.

Q. When did you first work in a section that had a number?

A. I don't remember the year.

Q. Can you give me even approximately the year?

A. Well, it was when we moved over in the Corrigan Building.

Q. About when was that, what year?

A. I don't know. I would have to find out when—

Q. I am testing your memory. Have you any conception of when? Can you give it to us within a year or two, or even within 5 years?

A. No.

Q. Even though you cannot give it within 5 years, can you give the number of the section in which you worked as an instructor the first time you had a numbered section?

A. Well, we will say 415.

Q. On what floor did you work in 415?

A. I worked on the eighth floor the biggest part of the time. I won't say it was just that, but—

Q. Please, Madam, I want to take it a step at a time, to see how clear your memory is on the matter. At some indefinite time, which you cannot fix, within 5 years, you began working in section 415 on the eighth floor? Have I got that straight?

A. I think so.

Q. How many years from that indefinite beginning point did you work in that numbered section on the eighth floor?

[fol. 5948] A. Well, I'll tell you—I was changed around an awful lot, and that section was changed from floor to floor, and I couldn't tell you how many years it was.

Q. Can you tell me if it was as much as 1 year?

A. It was over that.

Q. Or 2 years?

A. It was over that.

Q. Or 3 years?

A. Well, we'll say 2 years.

Q. During that 2 years, at some indefinite time—

Mr. Langsdale: I object to this constant repetition of "some indefinite time"—

Mr. Hogsett: It is indefinite.

Mr. Langsdale: Just a moment. It is an effort on the part of counsel to terrify and intimidate this witness. She said she couldn't remember whether it was 2—

Trial Examiner Batten: I don't think the witness is being intimidated, Mr. Langsdale. If I thought for a moment she were, I would move her a little farther away, but I think Mr. Hogsett's reference to "indefinite time"—Of course, there may become a limit to the use of that term in his questions, but we will proceed.

Will you read the question that is pending, please?

Mr. Hogsett: Let me say to the witness, first:

By Mr. Hogsett:

Q. Are you terrified at all?

[fol. 5949] A. Not at all.

Q. Well, if you will not terrify me, I will not terrify you, and we will just get along fine.

A. All right.

Trial Examiner Batten: I doubt if either of you would get very far.

Will you read the question?

(Thereupon the last question was read by the reporter, as follows: .

"During that 2 years, at some indefinite time—")

Trial Examiner Batten: Will you complete it, please?

Mr. Hogsett: Yes. I apparently had not completed it.

By Mr. Hogsett:

Q. During that 2 years that you worked in section 415, it was always on the eighth floor, was it?

A. Yes.

Q. Now, from the end of that time what was the next numbered section you worked in?

A. Well, I was changed around an awful lot.

Q. Yes. I believe you said that.

A. And when you change around as many times as I was, you can't remember just the dates and the sections and everything, but I can tell you the sections I had.

Q. Very well.

A. I had 515. Let's see. They divided the 415 section at one time and it was 415-A and 415-B, and I had 415-A [fol. 5950] part of the time, and part of the time 415-B, and part of the time both of them.

Q. Any other numbered sections?

A. Well, I'll tell you— This last year I have been changed around a lot. I did floor work there for a while in 522, but just for a short while.

Q. Any other numbers?

A. I was in the notions department for a short while.

Q. Has that a number?

A. That was in 1940.

Q. Has that a number?

A. It's all the notions department.

Q. It has no number?

A. I think it does.

Q. What is the number?

A. Number 93, I think.

Q. Number 93, which is the notions?

A. "I think," I said.

Q. Now, have you given all of the numbered sections in which you worked as an instructor at any time?

A. Now, when I was down there in the notions I wasn't an instructor.

Q. All right. I will cross that off, because I am only dealing with your status as an instructor. Now, have you given me all of the numbered sections in which you have [fol. 5951] ever worked as an instructor, to the best of your memory?

A. Yes.

Q. To be accurate, I will read them to you. You said you started in 415, as the first numbered section, and you were in 523, 415-A, 415-B, and 522?

A. Not 522. I wasn't an instructor there.

Q. All right. I will cross that off. I will read them again. The only numbered sections in which you worked as an instructor were sections 415, 523, 415-A, and 415-B; is that right?

A. I think it was, as far as I can recall.

Q. Can you give me the floor on which you worked in section 523?

A. Let's see. That's down on two.

Q. I beg your pardon?

A. Number two—second floor.

Q. The floor, please, in which you worked in section 415-A?

A. What?

Q. The floor?

A. On eight.

Q. And on what floor was 415-B?

A. The same floor.

Q. On eight?

A. Yes.

Q. Then, your entire work as an instructor has at all [fol. 5952] times during the 15 years of time been on either the second or eighth floor, according to what you have said. Is that right?

A. The second and—what?

Q. I am only taking your word for it. You said 523 was on the second floor, and that 415-A—

A. Well, I worked on seven.

Q. In what numbered section did you work on seven?

A. Let's see, 523 was on seven.

Q. Then, I should correct that.

A. Yes.

Q. Instead of two, 523 was on seven; is that correct?

A. Yes.

Q. Has all of your work as an instructor during the 15 years of your service as such been on either the seventh or eighth floor?

A. No. I was down on the second.

Q. In what numbered section there?

A. Let's see. What did they call that? I don't remember what section that was.

Q. I will have to put a blank, then, for that. But it was some section which had a number, and it was on the second floor; is that right?

A. Yes.

Q. Now, have you covered all of the floors on which you ever worked in numbered sections as an instructor—[fol. 5953] two, seven and eight?

A. I think so.

Q. Now, can you give me the length of time in which you worked in section 523 as an instructor and—I will add to it; in the interest of brevity—when you worked there?

A. You mean, what date I worked there?

Q. Oh, not dates. I am just asking for years, approximately.

A. Well, I've been just changed around like that. I was in 415, and then I would go down to 523. I've changed around from two, seven, and eight, but I was, the biggest part, on the eighth floor.

Q. Can you give me the length of time in which you have worked as an instructor in any of these other numbered sections, namely, 523, on the seventh floor, 415-A, on the eighth floor, and 415-B, on the eighth floor, and this

numbered section that you cannot identify on the second floor? Can you give me the length of time and the time during which you have worked in any one of those sections?

A. I'll just say it's seasonal— We have seasonal work on the special, and that's what I did; I did special machine instructing, and it was as long as the season would last. Maybe we would have enough work for the second season, and maybe I would be there or maybe I would be someplace else.

Q. Other than that, you cannot tell me anything about [fol. 5954] the length of time or the time—

A. I told you, in 415, on the eighth floor; I spent the biggest part of my time there.

Mr. Hogsett: Let's deal with this March 18 meeting, of 1937. Did you undertake to say that you told Ruby Clayton, Oma Lee Cooper, Edith Dean, and Ethel Riegel to go to that meeting?

Miss Weyand: She did not say that with reference to the March 18 meeting. I object to your misleading the witness on that. She said, the meeting at which the Donnelly Garment Workers' Union was organized.

Mr. Langsdale: April 27.

Mr. Hogsett: All right, I will go to that.

By Mr. Hogsett:

Q. Do you say you told these four girls on April 27, 1937, to go to that meeting?

A. I told the whole section. I didn't go to them in person.

Q. But you did say— And of course I am not trying to mislead you; I hope you know that. You did say, did you not, you told these three first named, Ruby Clayton, Oma Lee Cooper, and Edith Dean, and you thought you told Ethel Riegel? Didn't you say that?

[fol. 5955] (Thereupon the last question was read by the reporter as follows:

"But you did say— And of course I am not trying to mislead you; I hope you know that. You did say, did you not, you told these three first named, Ruby Clayton, Oma Lee Cooper, and Edith Dean, and you thought you told Ethel Riegel? Didn't you say that?"

Trial Examiner Batten: Do you understand the question?

The Witness: Yes.

By Mr. Hogsett:

Q. Did you so testify?

A. I said I didn't go to them personally. I told all of the girls.

Q. But you identified—you picked out those particular girls— A. Those girls were in my section.

Q. But you identified them as being there on that day?

A. They were. I know the girls that were there.

[fol. 5956] Mr. Hogsett: It was about 5½ years ago that that meeting was held, and you recall that those three girls, Ruby Clayton, Oma Lee Cooper, and Edith Dean, were there on that day, and you think you recall that Ethel Riegel was; is that right?

[fol. 5957] A. I said I told the section. I did not go to any particular girl. I never go to a particular girl—

A. (Continuing) I said I did not go to those particular girls. I went to the whole section. I never told one girl at a time.

By Mr. Hogsett:

Q. How do you know Ruby Clayton was there the day you tell about? A. How do I know?

Q. Yes. A. Those girls worked for me then.

Q. How do you know Oma Lee Cooper was there that day?

A. Because those girls were all there.

Q. Were they there the day before?

A. Yes, because that was the busy season.

Q. Were they there the day after?

A. I won't say yes or no to that question.

[fol. 5958] Q. But you will pick out this particular day and say they were there, won't you?

A. I said— I didn't pick out any particular day.

Q. But Miss Weyand did. She directed your attention to a particular day, and you quite freely testified they were there and you remembered it?

Trial Examiner Batten: Now, just a moment. I don't think that is quite the testimony. I think the first question to the witness was, whether she told the girls, and she said she told her whole section. And then, Miss Weyand asked her about each one of these individuals, "Do you recall whether they were there?" and the witness, as I recall, then recalled that the first three were there and the fourth one she wasn't sure about.

Mr. Hogsett: That is exactly correct. And now I am asking her, how she is able to be sure that the first three were there, picking out that particular day, just so the testimony will be rebuttal.

[fol. 5959] By Mr. Hogsett:

Q. All I am asking you to tell me, if you can, is how you are able to say those particular girls were there on that particular day in 1937?

A. Well, they worked for me then—they worked for me.

Q. They didn't work every day, of course?

A. Well, no, not just every day, but—

Q. So, as a matter of fact, you have no independent memory of the girls that were there on that day, or any other particular day, 5 years ago?

A. They worked for me, but maybe not that particular day.

[fol. 5960] By Trial Examiner Batten:

Q. What you mean is, in the ordinary course of events they would be working for you, unless they were out on vacation, or sick, or it was on Sunday, or—

A. Yes.

Q. That is, you told Mr. Hogsett you have no independent recollection that on a certain day, at a certain time, a certain girl was there at her machine? A. No.

By Mr. Hogsett:

Q. And in like manner, you cannot tell what particular girls were present in your section on March 18, 1937, the day of the meeting at which Mrs. Reed spoke? You can't remember just who was there that day, can you?

A. No, and no one else, that far back, but I remember I had a section and I told the girls that were there.

Q. Now, let's get it again. I think you made this clear, but I want to be sure; give me the number of the section and the floor on which you were working on each of these two dates, namely, March 18, 1937, and April 27, 1937?

A. On the eighth floor, in section 415.

Q. You are positive of that, are you? A. Yes.

Q. Now, in what section were you working on the day of the Sylvia Hull incident?

A. I was on the eighth floor, in 415.

[fol. 5961] Q. So that all three of these occasions found you in the same numbered section and on the same floor, namely, 415, on the eighth floor? A. Yes.

Q. Are you sure of that?

A. I am sure of that, because, like I told you before, I spent the biggest part of my time on the eighth floor.

Q. Yes, but—

A. I changed around, but I don't know the years and times, and like that. I just worked—well, where they could put us. If they needed that for other machines, or something, they just moved us around. They moved us around a whole lot.

Q. But you saw the nurse take Sylvia Hull, you said,—

A. Yes. That was on the eighth floor.

Q. You know that was on the eighth floor? A. Yes.

Q. And you know you were in section 415, you say?

A. Yes.

Q. Now, let's take another date, March 2, 1937. In what numbered section were you working, and on what floor? A. I don't remember.

Q. Could you have made a change between March 2 and March 18, 1937?

A. Well, I could have, but I don't know as I did.

Q. Then, to the best of your memory were you still in [fol. 5962] section 415 and on the eighth floor from March 2, also? A. To the best of my memory.

Q. But these other dates you are sure about. You have made that very clear, haven't you? A. Yes.

Q. Now, isn't it a fact, Mrs. Dorsey, that your memory of the number of the section and the floor on which you worked on each of these three dates, namely, March 18, 1937, April 27, 1937, and the date of the Sylvia Hull incident, which was April 23, 1937, is wholly wrong, and that, as shown by your own record, you were working in section 518 on each of those days, and on the seventh floor?

Miss Weyand: I would like to say, they can't impeach their own witness.

[fol. 5964] Mr. Reed: It isn't material, but we have another curious legal proposition. A while ago it was that all the proponents of the case had to do was to make a prima facie case, and then, when the other side testified, come in and make a case. Now we have the thought that if a witness has sworn a certain way for us and a witness is put on on the other side in rebuttal, that if we ask any questions about the same facts, that that is impeaching testimony. It may be contradicting testimony, but that [fol. 5965] isn't impeaching evidence.

Trial Examiner Batten: Well, we will proceed. Mr. Hogsett.

Mr. Hogsett: Isn't it a fact that on March 18, 1937, you were working in section 518, on the seventh floor?

[fol. 5966] A. No, I didn't work there. I was up on the eighth floor.

By Mr. Hogsett:

Q. Isn't it a fact that on April 23, 1937, the date of the Sylvia Hull episode, you were likewise working in section 518, on the seventh floor?

A. No. I was on the eighth floor.

Q. Isn't it a fact that on the date of the formation of the Donnelly Garment Workers' Union, namely, April 27, 1937, you were working in section 518, on the seventh floor?

A. Is it a fact?

Q. Yes. I am asking you if that is not a fact.

Mr. Langsdale: I object to the question again for the reason that it is repetitious.

Trial Examiner Batten: The witness may answer, if she recalls, where she was working.

A. I don't remember whether it was the seventh or eighth floor. I told you I was changed around so much, I don't remember the date, only just when something come up like the Sylvia Hull incident, and I remember being on the eighth floor then.

By Mr. Hogsett:

Q. Are you saying now you cannot remember the number of the section or the floor on any of these dates?

A. I told you that I wouldn't remember the dates that I was on them, but I worked the biggest part of the time on the eighth floor.

[fol. 5967] Q. I know, I heard that. But I am asking about the dates of these particular incidents.

A. The particular incidents?

Q. There are four of them I mentioned.

A. When Sylvia Hull—I was on the eighth floor—

Trial Examiner Batten: Now, Miss Witness, please answer the questions and don't start to answer them until Mr. Hogsett has completed his questions.

By Mr. Hogsett:

Q. On that date you say you were in section 415, on the eighth floor? A. Yes, on that date.

Q. And you say the same thing in regard to these other three dates—

Mr. Langsdale: What other three dates?

Mr. Hogsett: March 2, 1937.

Miss Weyand: She didn't say that with respect to March 2, 1937.

Mr. Hogsett: March 18, 1937, I should say, and April 23, 1937, and April 27, 1937.

Miss Weyand: I object. The witness has shown she doesn't remember things by the days of the month but by the things that occurred there.

Trial Examiner Batten: As I recall the witness' testimony, she thought it was her best recollection that she was on the eighth floor on the dates Mr. Hogsett asked her [fol. 5968] about, but she also said she wasn't certain, because she was moved around a lot.

Miss Weyand: She said she was certain as to incidents, rather than dates, and said she was on the eighth floor at the time certain incidents occurred.

Mr. Langsdale: Now, if the Examiner please, how long is an attorney going to be permitted to sit there and shake his fist in the face of a witness and ask her the same question over and over and over again? I submit it is repetition.

Trial Examiner Batten: Well, if I think Mr. Hogsett or any other attorney is improperly asking questions of a witness, or intimidating a witness, or pointing his finger at her too frequently, I will so indicate.

Mr. Langsdale: Well, I have a right to call the Examiner's attention to what I think about it, haven't I?

Trial Examiner Batten: Yes.

Mr. Langsdale: And I still object. Whether he is trying to hit her in the nose with his finger or not, this is repetition, because she has answered it 15 or 20 times.

[fol. 5973] By Mr. Hogsett:

Q. Mrs. Dorsey, at the close of the hearing yesterday, the following questions and answers were recorded, and I'll read them to you, to get the connection in your mind:

"Q. I am asking about the dates of these particular incidents.

"A. The particular incidents?

"Q. There are four of them I mentioned.

"A. When Sylvia Hull—I was on the eighth floor—"
Then I'll omit what the Trial Examiner said and give you
the testimony.

[fol. 5974] "Q. On that date you say you were in section
415, on the eighth floor?"

Mr. Langsdale: What page are you reading from?

Mr. Hogsett: 5967. (Reading)

"A. Yes, on that date.

"Q. And you say the same thing in regard to these
other three dates—

"Mr. Langsdale: What other three dates?

"Mr. Hogsett: March 2, 1937, March 18, 1937, April
23, 1937, and April 27, 1937?"

Mr. Hogsett: Is that correct?

Mr. Langsdale: Now, just a moment. Did I interpose
an objection to that question?

Mr. Hogsett: Yes, the record says you did.

Mr. Langsdale: Now, are you waiting for an answer?

Mr. Hogsett: I would like a ruling and then an answer.
No, I don't think you did really object. Miss Weyand
did. You made some comments.

Miss Weyand: On page 5968 there is an objection by
Mr. Langsdale, the third line from the bottom.

Mr. Hogsett: Oh, yes, that's right.

Trial Examiner Batten: What page is that you are
starting on?

Mr. Hogsett: 5967 and following.

Mr. Langsdale: I now object to the question again, if
[fol. 5975] I haven't, as assuming that she said she re-
membered the date of the March 2 circulation of the peti-
tion. In my recollection she said she didn't remember what
floor that was on, what section it was.

Trial Examiner Batten: Well, I'll overrule the ob-
jection.

The question to the witness now is: is that correct? Now, if it isn't correct the witness may answer the question if it is or if it is not. That is the question, isn't it, Mr. Hogsett?

Mr. Hogsett: That's right.

Mr. Langsdale: Will you read her the question?

Mr. Hogsett: Let me ask it again.

The Witness: May I ask what is the answer I made?

Trial Examiner Batten: Just a moment, Miss Witness, March 18.

Mr. Hogsett: Let's rephrase it, and that will make it intelligible to you.

A. It is hard to remember dates. I remember incidents but don't remember the dates.

Trial Examiner Batten: Miss Witness, just please wait for the question.

By Mr. Hogsett:

Q. On March 2, 1937, on the occasion of the passing, of the so-called passing of the petition letter, or Loyalty League petition or whatever it is called, were you then working as instructor in section 415 on the eighth floor? [fol. 5976] A. Now, that was March 27?

Q. No, no, March 2, 1937, at the time the protest letter was passed through the sections and signed by the employees.

A. Oh, that is when I said I wasn't supposed to know about it?

Q. Yes.

A. Yes.

Q. Now, were you working as instructor in section 415 on the eighth floor on that date?

A. Yes, I was.

Q. Now, let's go to the next date, on March 18, 1937, on the day of the meeting at which Mrs. Reed made a speech. Were you then working as instructor in section 415?

Mr. Langsdale: Just a moment before you answer that.

Mr. Hogsett: On the eighth floor?

Mr. Langsdale: I object to the question as repetition and ask it be stricken.

Trial Examiner Batten: I think it is repetitious to some extent, but let's get it straightened out so we can proceed.

By Mr. Hogsett:

Q. Please answer.

A. Was that the meeting when Mrs. Reed spoke to us about the Dubinsky and the 'sky matter'?

Q. Yes.

A. Yes.

[fol. 5977] Trial Examiner Batten: What was your answer, Miss Witness? I didn't get it.

A. Yes.

By Mr. Hogsett:

Q. On the 23rd of April, 1937, at the time of the Sylvia Hull incident, were you working as instructor in section 415 on the eighth floor?

A. That's right.

Q. On April 27, 1937, the day the Donnelly Garment Workers' Union was organized, were you working as instructor in that section on that floor?

A. The day they organized?

Q. Yes.

A. I was on the eighth floor in 415.

Q. You said yesterday that section 415 was one which ran clear across the floor. Do you remember?

A. Well, I said part of the time it was divided and part of the time it was together; it wasn't that way all the time.

Q. When it was together and ran clear across the floor was there one instructor, or were there two instructors in that section?

A. Wait a minute—at that time—at one time, I said, I had all the whole section clear across the room, because I remarked to some of the girls, and some of the girls remarked I should have roller skates; and then I said they [fol. 5978] divided it, and another instructor had half of it and I had half of it; but I don't remember the dates.

Q. But on the occasion when it ran clear across the floor and before it was divided, you were the only instructor, is that what you are saying?

A. I had a helper.

Q. Who was that?

A. Well, I don't remember. I had—my helpers were Frances Morrison and Vera Marshall and Grace Davis.

Q. Were they thread girls?

A. Yes, they were my thread girls.

Q. But was there any other person designated as instructor at that time?

A. Helping me instruct?

Q. No. Were you the only instructor?

A. I don't remember.

Q. Wait a minute. Let's get it clear so we won't have to go over it so much. On the occasion when your section ran clear across the floor, and before it was divided, were you the only instructor in that section?

A. Yes.

Q. What type of operators did you instruct?

A. The type of operators?

Q. Yes.

A. Well, now, I won't say at that particular time, but I [fol. 5979] had a lot of different machines. I have had hemstitching and I have had blind stitching and I have had eyelet, and I have had pinking and embroidery, and zig-zagging and double stitching, airline tucking.

Q. Did you instruct the type of work known as shirring?

A. I did, yes, sir. We tripple shirred and single shirred.

Q. Was that the principal kind of work that you instructed in?

A. Principal?

Q. As to which you were instructor.

A. All I was telling you about was principal things, not one particular thing.

Q. Now, yesterday, in the course of your direct examination you expressed some uncertainty when Miss Weyand was asking you about certain meetings, whether they were Donnelly Garment Workers' Union meetings or Loyalty League meetings. Do you remember that?

A. I remember that incident.

Q. As a matter of fact you were trying to express the thought then, were you not, that your mind isn't clear on the details of whether the meetings you were talking about

in your direct examination were Donnelly Garment Workers' Union meetings or—

Mr. Langsdale: (Interrupting) Just a moment—

Mr. Hogsett: (Interrupting) Or Loyalty League meetings?

[fol. 5980] Mr. Langsdale: Just a moment—

Mr. Hogsett: (Interrupting) Isn't that true?

Mr. Langsdale: I object to that because there is not the slightest possible foundation for an assumption that she had the organization meeting of April 27 mixed up with Loyalty League meetings, not the slightest, and I am objecting to his assuming in his question that she had them mixed up with the Loyalty League meetings.

By Trial Examiner Batten:

Q. Do you understand the question, Miss Witness?

A. Yes, I do.

Q. Well, if you understand it, you may answer.

A. The reason I understand about Sylvia Hull and the meeting of the Workers' Union, organizing of it, because you remember those things.

By Mr. Hogsett:

Q. But you were confused, you mean, as to the others, as to whether they were the Donnelly Garment Workers' Union or Loyalty League meetings?

A. What I said was we had them so fast and furious there for a while I can't remember the dates, whether it was a Loyalty League meeting or not, but I do remember the incidents, because that happened.

Q. How many of each do you remember in 1937?

A. Oh, I don't know. I can't remember how many we had. I said we had them so fast and furious.

[fol. 5981] Q. How many, once a week or a month or a season? Can you give us any idea at all how many meetings?

A. No.

Q. Of one group or the other group?

A. No, I can't give you any idea.

Q. No idea at all?

A. No, there was too many meetings.

Q. Can you give us an approximation of it, your best judgment of it?

A. No.

Q. You have no idea at all, then, is that what you mean?

A. I mean we had meetings, but I said I didn't know how many.

Q. Of course, I am trying to make it clear to you that I am not asking for a definite, positive statement of the number. I am asking if you can give us your best approximate judgment of it.

Mr. Langsdale: Just a moment. I object to the question as repetition. The witness stated they had many of them but she couldn't tell how many.

Trial Examiner Batten: Well, the witness's question is whether she can approximate the number.

Mr. Hogsett: That's right.

Trial Examiner Batten: Can you tell us, Miss Witness?

A. No, I don't want to say; I might be wrong, but I know we had a lot of them.

[fol. 5982] By Mr. Hogsett:

Q. Do you know whether you had more of the Union meetings than the Loyalty League meetings?

A. I know there were some concerning the Union; the Loyalty League meetings were more or less social affairs, you know.

Q. As a matter of fact, that was all the Loyalty League was, a social group?

A. Yes, a kind of get-together and get acquainted affair, and plan on good times, and things like that.

Q. Yes. You had parties and picnics?

A. Yes, that was the object of it.

Q. The sole object, wasn't it?

A. I don't know whether it was the sole object; it might have had another leading, it might have led up to something, I don't know.

Q. To the best of your knowledge, was the Loyalty League purely and simply a social organization? Isn't that the honest truth?

A. No, I don't think so.

Q. In characterizing it here just a moment ago, you said that was what it was doing?

A. What?

Q. Engaging in social activities?

A. That is what we talked about, but maybe there was something behind the background.

Q. Well, you are speculating on that, aren't you?

[fol. 5983] A. I said maybe.

Q. Is that as far as you will go on that question?

A. Yes, as far as I will go.

Q. Now, you said yesterday, and I thought it seemed to me you made rather a point of it — Miss Weyand did — that you attended the Donnelly Garment Workers' Union, some of the meetings, in uniform.

A. Well, we did. We attended Loyalty League meetings in uniform too.

Q. Exactly, exactly.

A. And we attended the union meetings, like I told you.

Q. Exactly. Because you were ready to go to the meeting, and you preferred to go in your uniform and come back and change?

A. No, we had to go to work. It didn't last all the time. I know of one instance when we went down there in our uniforms, and it came time to go home when we got through, and some of the girls asked me if I would put their work away, and I said, "Yes, you go on home and I'll put your work away." What do you call that?

Q. Don't argue with me.

Trial Examiner Batten: Miss Witness, when Mr. Hogsett asks you a question, you answer it and stop; he will always ask the questions.

A. Well, all right.

By Mr. Hogsett:

Q. That last question you asked me indicates you have some interest in this matter. Are you protecting this for the Labor Board?

A. He said to forget it.

Q. I am questioning your position in this matter.

A. I am just a witness. Just ask me the questions and I'll answer what you ask.

Q. Are you also somewhat interested in protecting the matter?

A. No, I certainly am not. I am not interested in either side now.

Q. When did you sever your connection with the Donnelly Garment Workers' Union?

A. In March of this year.

Q. Under what circumstances?

A. Under what circumstances?

Q. Yes.

A. I quit because I wasn't treated right.

Q. Then you are mad, you quit sore, you are sore yet?

Mr. Langsdale. Just a minute. I object to the word "sore."

Trial Examiner Batten: Let's have one question at a time.

By Mr. Hogsett:

Q. You weren't treated right, you thought?

A. I don't think, I know.

Q. You quit because you were mad?

[fol. 5985] A. I wasn't treated right when I quit.

Q. Well, you are mad at the company?

A. I won't say at the company, I was mad at some of those people down there, they didn't treat me right.

Q. Who are you mad at?

A. Well, that Cecile Ealy is a snake in the grass.

Q. Well, he is a snake in the grass, you say?

A. It is a she, not a he.

Q. Are you mad at anyone else down there?

A. She makes me miserable.

Trial Examiner Batten: The question is, was there anyone else.

A. That I am particularly mad at?

By Trial Examiner Batten:

Q. Yes.

A. Well, I will admit I got a little mad at Mrs. Reed because she wouldn't hear me, and I thought after practically 16 years of service that she should have seen me and talked to me and heard my side of the story.

By Mr. Hogsett:

Q. All right. You wanted to make some complaints to her?

A. I certainly did.

Q. What is Cecile Ealy's position there?

A. I don't really know. She is a sort of a tattle-tale down there.

Q. You were mad and venomous about this whole matter, weren't you? Just boiling mad, aren't you?

A. Yes, when her name comes up it makes me mad.

[fol. 5987] By Mr. Hogsett:

Q. Well, you feel unfriendly toward Mrs. Reed?

A. I wouldn't say that; I would talk to her right now if she was here.

Q. Oh, you would speak to her if she was here?

A. I certainly would.

Q. But you are unfriendly toward her?

A. I don't know; my heart has been for 16 years with her.

Q. You have a chip on your shoulder because she should have seen you at a time when you wanted to present a grievance?

A. I don't know why she didn't see me.

Q. You have a chip on your shoulder right now, as you are sitting in this witness chair?

A. I don't think I have.

[fol. 5988] By Mr. Hogsett:

Q. Now, who else at the company are you at outs with or unfriendly toward?

A. I don't know as I am out with anyone. I have a lot of friends down there, I think.

Q. Well, with a good many people down there?

A. I hope so.

Q. But I am speaking of those whom you may be unfriendly with. How many others besides Mrs. Reed and Cecile Ealy are you angry with?

Mr. Langsdale: That is objected to. She said she wasn't angry with anyone down there.

Trial Examiner Batten: Well, the question is, is there anyone else, Miss Witness?

A. No.

By Mr. Hogsett:

Q. How about Lee Baty?

A. I think Mr. Baty is all right.

Q. He has your unqualified approval, has he?

A. I can't say unqualified.

[fol. 5989] By Mr. Hogsett:

Q. Go ahead and tell what you were going to say.

A. Well, Mr. Baty, you know, he is kind-of changeable.

Q. Like the weather?

A. Well, sort of.

Q. And you think he is all right just part of the time?

A. You see, one time I went up to Mr. Baty when I was being changed around; and naturally when you are changed around you begin to worry whether you will have work — If you don't have to work it is all right — at that time I had to work, and I am not a rich woman yet by any means, and I don't expect to be. Of course, I didn't expect to get rich down there.

Mr. Långsdale: Just a moment. I can't see the purpose of these things. I object to it because it will open up a matter of further examination. The question as to whether or not she is angry at Mr. Baty is proper, but not why and when and everything that may have happened between her and Mr. Baty.

[fol. 5990] Trial Examiner Batten: Do you want to finish your answer?

A. I'll tell what Mr. Baty told me. That is what I was leading up to.

Trial Examiner Batten: Well, proceed.

A. Shall I?

Trial Examiner Batten: You may proceed.

A. And I went to see Mr. Baty and asked him what was the matter, was anything wrong with me that I had been changed around, and he said, "Why, no, Dorsey." Well, I said, "Mr. Baty, I have been changed around so much I was just kind of worried," and he said, "Dorsey, you don't need to worrk until I start to worrying." He said, [fol. 5991] "We are lucky to have people around like you and Grace Davis, especially, a machine instructor," and he said, "We have to take care of you and change you around any place you can work, and when we have work for you we try to take care of you, and you don't have no worry," and I went downstairs and was perfectly satisfied, until something else came up. Every time Cecile came up, "Mr. Baty wants you to do this," and "Mr. Baty wants you to do that."

Trial Examiner Batten: Now, Miss Witness— will you read the question to the witness, please?

(Thereupon the last question was reread by the reporter, as follows:

"Q. And you think he is all right just part of the time?"

Trial Examiner Batten: Now, the question to you, Miss Witness, is, do you think Mr. Baty is all right part of the time?

A. Well, I understood the question was, was I sore at Mr. Baty.

By Mr. Hogsett:

Q. No, it is a simple question.

Trial Examiner Batten: The question to you, Miss Witness, is short and simple. The question is — will you read it again, as you have it? Now, listen to it, Miss Witness, please.

[fol. 5992] (Thereupon the last question was reread by the reporter.)

A. Well, I'll say yes.

By Mr. Hogsett:

Q. You would. Part of the time you are not satisfied with him, and part of the time you are; is that it?

A. If he wasn't changeable; he is kind of changeable.

Q. All right. That makes three people, now. Is there anyone else that you are unfriendly toward?

Miss Weyand: She hasn't testified she was unfriendly toward those people, and I object to that characterization of it.

Trial Examiner Batten: Well, I think I said before in this hearing that I am not going to accept the questions which any attorneys ask as evidence.

Mr. Hogsett: No, they are not evidence.

Trial Examiner Batten: Now, if the question is asked in that manner and the evidence doesn't show that that is correct, it wouldn't change the evidence.

Now, do you understand this question?

A. Yes, I understand it. I want to say that I am not unfriendly with Mr. Baty; I would speak to him. It is not that, but the only one —

By Trial Examiner Batten:

Q. Well, the question to you, Miss Witness, is: is there anyone else?

A. No.

[fol. 5993] Q. Besides Mrs. Reed — and what was the other name?

Mr. Hogsett: Cecile Ealy and Mr. Baty.

By Trial Examiner Batten:

Q. (Continuing) Cecil Ealy and Mr. Baty, that you have talked about or testified about, is there anyone else?

A. No.

Mr. Langedale: Just a moment. I object to the question; she is not unfriendly with anybody except one, and that is Cecile Ealy.

A. Yes.

By Mr. Hogsett:

Q. Now, you would go so far as to speak to Mr. Baty if you saw him?

A. Yes, I would.

Q. So, you haven't actually quit speaking to him?

A. No.

Q. Now, were you satisfied with his administration of the factory when he was put in as factory manager?

Miss Weyand: I object to that as irrelevant to any issue in this case.

Trial Examiner Batten: I think so too.

Mr. Hogsett: I think it throws light on whether she has an animus, as she sits here and gives this testimony.

Trial Examiner Batten: Well, suppose the employees should say they weren't satisfied with the management of the business.

[fol. 5994] Mr. Hogsett: I think it has a bearing.

Trial Examiner Batten: Well, I don't think so, Mr. Hogsett, as far as showing an interest is concerned.

Mr. Hogsett: Very good. I bow to Your Honor's ruling.

By Mr. Hogsett:

Q. Now, when were you first asked by anyone connected with either the Labor Board or Mr. Langsdale's client about the incidents you have testified to in this hearing?

A. When I was first asked about—will you please ask me again?

Q. Yes, I will. A. Thank you.

Q. When were you first asked by anyone connected with the Labor Board or anyone connected with Mr. Langsdale or his client about the incidents you have testified to here in this hearing?

A. Well, I can't remember the date.

Q. Well, roughly; I don't care to bind you to the exact date. Was it within the last week, or was it within the last 10 days, or the last month? Fix it as near as you can.

A. Well, I'll say within the last 10 days.

Q. Where were you approached and by whom?

Mr. Langsdale: Now, if the Examiner please, I don't know whether they are going to accord to us the courtesy we accorded to them by agreement, that they not rag wit-

[fol. 5995] nesses about talking to lawyers or investigators, or where they talked to them or have seen them.

If they want to go back on that agreement, why, I will adhere to it strictly.

Mr. Hogsett: I am not aware of any agreement of any kind.

Mr. Langsdale: Your co-counsel, while you were off in Michigan, made that agreement.

Mr. Hogsett: Did I violate any agreement that was made while I was gone?

Mr. Ingraham: I don't recall any agreement.

Mr. Langsdale: You remember we agreed we could bring these witnesses in and you wouldn't ask them who they had been talking to, where or when. Even when I asked one of the witnesses whether she went over to Mr. Tyler's office to sign one of those agreements, you objected to it as immaterial.

Trial Examiner Batten: Of course, I know nothing of any agreement—

Mr. Lane: (Interrupting) There wasn't any agreement.

Trial Examiner Batten: (Continuing)—between counsel I remember one day the matter came up, and I believe—I don't recall the name of the witness—but I believe you, Mr. Langsdale, started to inquire of the witness whom she had talked to about this case, and I think the witness testified she hadn't talked to anyone except counsel; and [fol. 5996] I think I stated at that time that while I would permit you to ask that type of questions, we expected all witnesses to talk with counsel before they appeared here, because it would expedite the hearing.

Now, I see no reason why Mr. Hogsett should not proceed, within reasonable limits.

Mr. Langsdale: I don't either, but I am just wondering if this is going to be the cross-examination.

Trial Examiner Batten: In his present inquiry, I see no reason why he shouldn't proceed with it.

Mr. Langsdale: I haven't any objection to this specific question. I just wondered if they are going to do that; if they are, I would like to recall some of their witnesses and ask them along that same line.

Mr. Ingraham: Well, you examined three or four of our witnesses, and asked them if they had talked to me, and I didn't make any objection to it.

Trial Examiner Batten: As a matter of fact, I think I was the one who objected to it. But, let's don't waste any more time, Mr. Hogsett. You proceed, and if you proceed further than I think you should, if no one else objects, I will.

Mr. Lane: Mr. Examiner, I want the record to show that as far as I am concerned, I never made any such an agreement or was even approached about any such an agreement.

[fol. 5997] Trial Examiner Batten: Mr. Lane, I am not concerned about any agreement; and if you men make agreements outside of this hearing room, and it is not in the record, as far as I am concerned it is out.

Now, let's proceed with the witness. Is there a question pending, Mr. Reporter?

Mr. Langsdale: I have no objection to that question. I don't see any reason why she shouldn't tell everything she knows along that line; but my recollection was that we had that agreement.

Trial Examiner Batten: Mr. Reporter, will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Q. Where were you approached and by whom?")

Trial Examiner Batten: Yes, you may tell whom you talked to.

A. This lady (indicating), this attorney.

By Mr. Hogsett:

Q. Miss Weyand? A. Yes.

Q. Where were you approached by Miss Weyand?

A. At my apartment, my room.

Q. And what was the length of the conversation you had with her on that occasion? A. The length?

[fol. 5998] Q. Yes.

A. Well, I don't know the amount of time.

Q. Oh, roughly? A. An hour.

Q. An hour. That's all right. Now, did she then go over the facts in detail, or merely generally?

A. Just generally.

Q. Did she go into detail such as she did in direct examination?

A. Not that one time, not the first time.

Q. Well, that is the first time. Now, when was the second time you talked with her?

A. Well, let's see. It was Monday night.

Q. This being Thursday—this is Thursday, today?

Trial Examiner Batten: No, this is Wednesday.

Mr. Hogsett: Is this Wednesday?

Trial Examiner Batten: I believe it is.

Mr. Hogsett: Well, I am a day off.

By Mr. Hogsett:

Q. It was day before yesterday evening, is that it?

A. Yes, Monday evening.

Q. And where did she talk with you then?

A. At Mrs. Skeens' home.

Q. Mrs. who? A. Mrs. Lola Skeens.

[fol. 5999] Q. How did you happen to be there?

A. How did I happen to be there?

Q. Yes. A. I went in a car there.

Q. Well, by arrangement? A. Sure.

Q. With Miss Weyand? A. Yes.

Q. Now, were there any other persons present besides you and Mrs. Skeens and Miss Weyand?

Trial Examiner Batten: Now, Mr. Hogsett, I don't believe—

Mr. Hogsett: (Interrupting) All right.

Trial Examiner Batten: What is the purpose of this?

Mr. Hogsett: I'll come to it in a moment. I'd rather not state it in the presence of the witness.

Trial Examiner Batten: Well, I don't want you to state it in the presence of the witness.

Mr. Hogsett: I'll withdraw the question.

By Mr. Hogsett: —

Q. Now, on that occasion, how long did you talk with Miss Weyand? A. Well, I'll just approximate it.

Q. Yes. A. Two hours.

Q. Did she go over the case then in detail with you? [fol. 6000] A. Yes.

Q. In the same detail, approximately, as she did in direct examination? A. Yes.

Q. Now, was that the last time that you talked to her before you came to the courtroom? A. Yes.

Q. Now, until Miss Weyand, on night before last, went over these details with you as to what occurred on a given occasion in March and in April, 1937, and asked who was present on those occasions, and as to what you said and what other people said on those occasions back in 1937, had you ever given any particular thought—

A. (Interrupting) Of course I had.

Q. (Continuing)—to those incidents? A. Why, sure.

Q. In other words, to be concrete, what reason would you have for remembering for five years and a half that on the day Mrs. Reed made her speech, or on the day the Donnelly Garment Workers' Union was organized, that Ruby Clayton was present in your section?

Mr. Langsdale: Now, just a moment. I object to the question as assuming Mrs. Clayton was in her section.

Mr. Hogsett: All right. We will just stand on that.

Trial Examiner Batten: Just a moment: I'll overrule [fol. 6001] the objection.

Trial Examiner Batten: Do you understand the question? A. Yes, I do.

Trial Examiner Batten: You may answer.

A. Well, I hardly know how to answer. The only thing is, I don't know why—you just sit sometimes and sort of go over the whole thing and just think of things that happened.

Mr. Hogsett: I noticed in your direct testimony you were quite specific about that.

Miss Weyand: Now, she didn't testify anything about the girls that were in her section on March 18 in her direct testimony, and I don't want you to mislead the witness that way.

Mr. Hogsett: Oh, I am not; I am going to read what she said. I am reading from page 5897, at which point Miss Weyand is referring to the meeting where the Donnelly Garment Workers' Union was organized.

Trial Examiner Batten: What page is that, Mr. Hogsett?

Mr. Hogsett: 5897.

Mr. Hogsett: I'll read several questions and answers from that, and the following pages:

"Q. And was Ruby Clayton working in that section at that time?

"A. —"

[fol. 6002] Mr. Langsdale (Interrupting): That is April 27?

Mr. Hogsett: That's right.

Mr. Hogsett (Reading): "A. Yes, she was.

"Q. And she was among the girls you told to go to the meeting?

"A. Yes, she was working for me and I told all the girls at the same time."

Then the Examiner says: "Well, the question is; was she one of the girls you told, Ruby Clayton?"

"A. Yes, she was.

"Q. Was Oma Lee Cooper working in your section at that time?"

I'll skip the intervening colloquy.

"A. Yes. Her name was Oma Lee Holloway."

Miss Weyand: That was by me, Oma Lee Holloway, not the answer.

Mr. Hogsett: Yes, that's right.

By Mr. Hogsett:

Q. And then the witness answers, finally, this question:

"Q. And your answer is true with reference to Oma Lee Cooper, is that correct, the same, that you told her among the other girls? A. Yes.

"Q. And that is true as to Edith Dean, is that correct?"

Then, some colloquy, and then the question was:

[fol. 6003] "Was Edith Dean working in your section at that time? A. Yes.

"Q. And was she among the girls that you told about the meeting? A. Yes.

"Q. Was Ethel Riegel working in your section at that time?

"A. Yes, I believe she was, but I am not just so sure; but I really think she was.

"Q. And you think she was among the girls that you told of the meeting? A. Yes, I do."

Now, what I would like to know is this: How did you happen to remember, if you did remember, for five years, that on a given day these three girls, Ruby Clayton, Oma Lee Cooper and Edith Dean were present, and why you said to the girls they should go to the meeting? How did you happen to remember that?

A. Well, Ruby Clayton hadn't been back so very long, and Oma, she sort of talked to me and told me her troubles, she is kind of that way, you know; and that is all I can say.

Q. Well, that is interesting, but hardly an answer.

Mr. Langsdale: I submit it is an answer, and a very direct answer.

Trial Examiner Batten: I think the objection is made. I'll pass on it.

[fol. 6004] Mr. Hogsett: Well, I'll withdraw the comment.

Trial Examiner Batten: Had you finished your answer, Miss Witness?

The Witness: Yes, I had.

Mr. Hogsett: Now, the question I would like for you to answer is this: How did you happen to remember for

five years and a half that these three girls, Ruby Clayton, Oma Lee Cooper and Edith Dean, were present in your section on that particular day?

Mr. Langsdale: Just a moment.

Miss Weyand: I object to that as a repetition of a previous question.

Mr. Hogsett (Continuing): And they were among those girls who heard you say that they should go to the meeting where the Donnelly Garment Workers' Union was to be organized?

Miss Weyand: I object to that. She has already answered the reason; and furthermore she testified she told the whole group of girls and these were among that group.

Mr. Langsdale: I object to it for the further reason she hasn't said that any girl heard her say it, she hasn't so testified, although I assume she meant that by her obeying the command to go.

By Trial Examiner Batten:

Q. Miss Witness, do you understand the question?

A. I think so.

[fol. 6005] Q. How do you happen to remember?

A. I told him that I happened to remember that Ruby hadn't been back very long, and we had been talking; and Oma Lee just sort of talks to me and tells me her troubles, and things, and she was one of that kind.

Q. And that is the basis upon which you recall those girls were there on that day, is that right?

A. Yes, as well as I can recall back, why, those other girls he mentioned were in my section, and in fact they said so.

By Mr. Hogsett:

Q. Can you remember any other person who was without doubt in your section on that date?

A. Yes, I can, I can name over some of them.

Q. How many were in your section at that time?

A. I don't remember the amount. All the time it wasn't filled up, and sometimes it was overflowing. I can't remember the amount.

Q. Would it be 40 or more or less than 40?

A. Well, it wouldn't be over 40.

Q. Now, let me ask you this; in your conversation with Miss Weyand, was it explained to you that Ruby Clayton and Oma Lee Cooper and Edith Dean had testified here as witnesses for the respondent, and that it was quite important to the Board's case that you be able to fix the fact that they were in the section on that particular date? [fol. 6006] A. No.

Q. A moment ago you said they testified here. How did you know that? A. I read it.

Q. Read it where? A. From Miss Weyand.

Q. What? A. Miss Weyand let me read it.

Q. Oh, then you did know it was important for you to cover that?

A. Yesterday, after we left here, I read it. That is why I told you they had already testified to that too.

Q. Where did you read it yesterday?

A. In her office.

Q. Miss Weyand took you to the Labor Board's office yesterday, did she, after the hearing closed? A. Yes.

Q. How long were you there on that occasion?

A. I don't remember how long.

Q. Well, roughly? You have been approximating other times. Please approximate this.

A. Well, I'll say 30 minutes.

Q. Well now, you say that you were changed around a good deal and you quit down at the Donnelly Garment Company in March of 1942, is that right?

[fol. 6007] A. Yes.

Q. Now, what have you done since then, Mrs. Dorsey?

A. I have been on a farm.

Q. Where do you live on the farm?

A. Garden City, Missouri, Route 2. I haven't been down there all the time, I am there, and backwards and forth.

Q. Have you done any other work, been employed any other places? A. No.

Mr. Hogsett: May I have International's Exhibit No.

201

Mr. Lane: That is the Intervener's.

Mr. Hogsett: Or Intervener's, whichever it is.

[fol. 6008] Mr. Hogsett: I show you intervener's exhibit No. 20, dated May 31st, 1939, and particularly the second signature on the left column, and ask you if you signed and swore to that paper.

Trial Examiner Batten: That is a rejected exhibit?

Miss Weyand: Yes. I object to the question, because I was not allowed to ask that question of any witness produced by the company.

Trial Examiner Batten: What witness was that, Miss Weyand?

Miss Weyand: I would have to check back.

Trial Examiner Batten: I remember when it came up.

Miss Weyand: Yes, and I started to ask such a question of a certain witness for the company and you refused to allow me. I can check back and see who it was.

Trial Examiner Batten: Well, I think I shall recess then, until you find out. I don't recall it.

[fol. 6010] Trial Examiner Batten: We will proceed.

Miss Weyand has given me the record for August 26, in connection with the testimony of Lois Barnes, in which it is indicated that Miss Weyand asked the question of the witness:

"Look at page 5 of intervener's exhibit No. 20 and tell me if that is your signature."

The answer was:

"Yes, it is."

I inquired:

"Is that the Circuit Court?"

Then there was some further discussion about its being a rejected exhibit. Then I stated:

"If it was rejected at the last hearing, what is the purpose of now presenting it?"

"Miss Weyand: I am not presenting it. I just asked the young lady her recollection of her signing certain documents."

And there was some further discussion on it. I stated:

"Then, you mean you want to use a rejected exhibit for that purpose?"

"Miss Weyand stated:

"I can use anything I want to that was signed around the plant."

"Trial Examiner Batten: Well, I don't think you are [fol. 6011] going to use a rejected exhibit."

Then you proceeded with the witness at that point.

I don't believe, if I understand the purpose of the present examination, it is the same in that instance, Miss Weyand.

Miss Weyand: Well, I don't know what the purpose of the present examination is. I can't see that it has any purpose whatsoever.

Mr. Hogsett: Now, that is certainly a devastating comment, if true.

Trial Examiner Batten: Well, I will excuse the witness.

Miss Witness, will you leave the room? Just go out in the hall.

(Thereupon the witness was temporarily excused from the Courtroom.)

Trial Examiner Batten: Now, Mr. Hogsett, have you any objection to—

Mr. Hogsett: Not at all. I think, in common fairness, I should tell you I think this affidavit which this witness signed is inconsistent with some of her testimony, both on direct and cross-examination.

Miss Weyand: I am unable to find any testimony, on either direct or cross, that it is inconsistent with. I ask that you show what it is inconsistent with.

Trial Examiner Batten: Now, as to whether it is in-
[fol. 6012] consistent, that, of course, would be set forth
by presenting this to the witness, and the record will then
indicate whether there is an inconsistency.

Do you mean by your statement, Miss Weyand, the attorney has to convince the Examiner that there is an inconsistency before it is used?

Miss Weyand: I think so. I think any document must have some materiality before it can be used.

Trial Examiner Batten: You are proceeding on the basis of the rule which provides, in substance, that to impeach a witness you must lay a proper foundation for the impeachment?

Miss Weyand: Before you can use a document, you must show its materiality and—

Trial Examiner Batten: I don't believe, Miss Weyand, I could follow that practice, for this reason: In all hearings which I have conducted—in fact, on my own motion frequently I have required counsel to produce a written statement, which they have, which they didn't care to produce, and then determine on the record whether there is anything inconsistent. You are asking me to pass upon it first, whether there is an inconsistency—

Miss Weyand: Well, it is presented to you now as my objection to showing the exhibit to the witness, and I think at that point it is proper for you to determine whether there [fol. 6013] is an inconsistency.

Trial Examiner Batten: I will say this: it must be obvious on what basis Mr. Hogsett was proceeding. My reason for that is, he has been proceeding upon the theory of impeaching this witness's testimony for some time.

Miss Weyand: But this document I don't think can serve this purpose, because it is not inconsistent with any testimony she gave. So, I can't see any other purpose it could have.

Trial Examiner Batten: Of course, Mr. Hogsett tells me that is his purpose.

Mr. Hogsett: That's it.

Miss Weyand: Then, it is upon you to rule that there is no inconsistency.

Trial Examiner Batten: If Mr. Hogsett wants to proceed on that basis,— Here is the affidavit. The record will indicate whether it is inconsistent. Now, certainly, I am not going back over this record or try from memory to determine that point.

Miss Weyand: I think Mr. Hogsett should present to you the places in direct he thinks it is inconsistent with.

Mr. Hogsett: That same burden, then, would be shifted to me. I would have no hesitancy in doing that, if you want to take the time and go through this witness' testimony line by line.

[fol. 6014] Trial Examiner Batten: I don't want to take that time. If that is your position, you proceed with your examination; and if the record then indicates you were incorrect in assuming that there was an inconsistency, and it develops by a review of the record that there is no inconsistency, then we have the record on it.

Miss Weyand: I would like an exception to your ruling in that regard.

Trial Examiner Batten: Yes.

Mr. Langsdale: Of course, I think the rule is, to show a document to the witness and ask her if she signed that document, the document first must have some materiality. You couldn't ask if she signed the third book of the Bible.

Trial Examiner Batten: Or, if you signed your second papers to become a citizen.

Mr. Langsdale: Now, there must be something in this that makes it material.

Mr. Hogsett: Contradiction does.

Mr. Langsdale: Well, if there is one.

Trial Examiner Batten: You are putting me in this position: You are asking me to determine it from my memory.

Mr. Langsdale: Don't you think he should be required to point out what is material in the document?

Trial Examiner Batten: I don't think so. If he hands it to the witness for that purpose and then it turns out in the [fol. 6015] record that there is no inconsistency,—

Mr. Hogsett: —there is no harm done.

Trial Examiner Batten: And if it turns out that there is a contradiction,— I don't see how any possible damage can be done.

Mr. Langsdale: I am going to insist that I be permitted, when this question is asked any witness, to interrogate the witness as to the circumstances under which they signed this affidavit—where, when, and who induced them to do it, and all of that sort of thing, which I was not permitted to do when their witnesses were on the stand as to their offer of proof.

Trial Examiner Batten: Well, are you asking me for a ruling now or are you just serving notice?

Mr. Langsdale: I am just announcing it ahead of time.

Mr. Hogsett: He is just threatening me.

Trial Examiner Batten: We will proceed.

Mr. Tyler: I wish to suggest, if the Examiner please, there is amply sufficient evidence of the materiality of this statement from the mere fact alone, without considering others, that this witness testified she had stated that girls did not feel free to talk and that she had heard comments in that case, whereas her affidavit says this action of the employees was the free and voluntary act.

Mr. Langsdale. Oh, no.

[fol. 6016] Miss Weyand: No.

Mr. Langsdale: No. But I submit, his speech is immaterial, because you have already ruled, Mr. Examiner.

Trial Examiner Batten: We will proceed.

Miss Weyand: I will call the witness.

(Thereupon the witness returned to the courtroom.)

Trial Examiner Batten: Mr. Hogsett, you may proceed.

Mr. Hogsett: I will rephrase the question. It is simpler to do that than to look it up in the record.

Mr. Hogsett: I hand you intervenor's exhibit No. 20—

Trial Examiner Batten: —A, I believe it is.

Miss Weyand: This is not A.

Trial Examiner Batten: Isn't it?

Mr. Hogsett: Let me just call it 20.

Trial Examiner Batten: Page what?

Mr. Hogsett: Page 6064.

Trial Examiner Batten: Circuit Court page number?

Mr. Hogsett: Circuit Court page number 6064.

By Mr. Hogsett:

Q. Directing your attention particularly to the signature "Ettar Dorsey," on the second line in the last column, I will ask you if you signed and swore to that paper?

A. I did.

Q. When you signed and swore to it were the statements [fol. 6017] in it true or false?

Mr. Langsdale: Now, just a moment.

Has she read it?

Mr. Hogsett: I thought she did a while ago. I will give her a chance. (Handing document to the witness.)

(Thereupon the document above referred to was read by the witness.)

Mr. Langsdale: Before you answer, I want to interpose an objection, that the question should be limited to the falsity or truthfulness as to this witness, and no one else. Certainly, when they use the word "we" in there, and she signs it, she is not speaking for "we," she is speaking only for herself, and she knows only that the statements therein are true as to herself, and I say it should be so limited.

Mr. Hogsett: That is true. That is fair enough.

Trial Examiner Batten: Proceed.

Mr. Hogsett: Was that affidavit at the time you signed and swore to it true or false, so far as you are concerned?

A. True.

Mr. Hogsett: I offer the affidavit--the paper in evidence, intervenor's exhibit No. 20-A to 20-KK, as a part of the cross-examination of this witness.

Mr. Langsdale: I object--

Trial Examiner Batten: It is rejected, except as to the [fol. 6018] page bearing this witness' signature.

What is the page number?

Mr. Hogsett: Circuit Court page number 6064.

Trial Examiner Batten: And you will have photostatic copies made of that page and--

Mr. Langsdale: Before you pass on this offer, I want to object to the offer of the document on the ground that it is immaterial. There isn't anything in that document, in any manner, shape or form, that contradicts anything this witness has said on the stand. It is immaterial and merely clogs the record.

Trial Examiner Batten: I will receive this page I have indicated in connection with this witness' testimony.

Mr. Hogsett: Please give me the names of the persons present at the meeting at Mrs. Skeens's home on Monday evening of this week.

Mr. Langsdale: I object to that question as an effort on the part of counsel to pry into the preparation of this case made by counsel. He has no right to know who was there, unless he states he thinks this witness may have been influenced to testify to something false. Certainly he has no right to find out who our other witnesses are or who the Board's other witnesses are, or who was there.

Mr. Hogsett: I submit, Your Honor, I have a legitimate right, within the bounds of cross-examination, to probe [fol. 6019] freely into every meeting had between the witness and my opponent in the case and to ascertain who was present at such meeting or meetings, and, indeed, what was said there. Now, the present question does not include what was said there, but I surely am entitled to the right, I submit, to learn who was there.

Trial Examiner Batten: Well, I don't think you are, unless there was someone there other than the attorneys and—

Mr. Hogsett: Well, there were.

Trial Examiner Batten: Just a moment, until I finish, Mr. Hogsett.

I don't think you are. If it was a conference in preparation of the case, I don't believe that under any rule counsel is entitled to inquire into that, because it happened to be at Mrs. Skeens's rather than in counsel's office, or your office, or Mr. Lane's office. I don't believe you are entitled to inquire in detail into matters concerning the preparation of the case.

Now, if you can show me this distinction, Mr. Hogsett, why are you any more entitled to do that than you are entitled to ask Mr. Langsdale to present to you his file that he has used in the preparation of this case, or Miss Weyand's file, assuming that she has taken statements that are not sworn to—On what basis—

Mr. Hogsett: I will be very glad to answer that by what [fol. 6020] I think is a clear distinction.

Mr. Langsdale's file and Miss Weyand's file would have had nothing whatever to do with this witness—would have had no effect upon the testimony of this witness, but—

Trial Examiner Batten: Assuming she had this statement she had prepared, and the witness had signed it, that isn't sworn to,—

Mr. Hogsett: I am not interested in that, unless I have reason to know that there is conflict, and in that event I can submit authority that we would be entitled to have that statement—if I could prove there was conflict.

Trial Examiner Batten: Conflict with what?

Mr. Hogsett: If I knew— Suppose I had a carbon copy of an affidavit which the witness had given Miss Weyand—I didn't have the original—it was over there—but I had the carbon. If this witness departed from the facts stated

in that carbon, I would have a right to say, "Didn't you make an affidavit to Miss Weyand, on a given date?" "I did." "It was signed and sworn to?" "That is true." "Now, I call on you for that affidavit."

Trial Examiner Batten: But in that case, Mr. Hogsett, you have this—you know.

Mr. Hogsett: I say, I would have to know that.

Trial Examiner Batten: You know the witness has said certain things.

[fol. 6021] Mr. Hogsett: I said that a moment ago.

Trial Examiner Batten: That, it seems to me, is quite a different situation.

Mr. Hogsett: Now, you drew me into a discussion of that type of case. That is afield. I don't think it is this situation at all.

Now, here is the reason: In cross-examining as to the credit of a witness, one of the elemental rules that Your Honor well knows is that you are entitled to probe all contacts between the witness and the opponent. Now, that can be carried to an extreme, of course,—

Trial Examiner Batten: Yes, I would say so.

Mr. Hogsett: But I haven't done that.

Trial Examiner Batten: Where the witness says, "Yes, I talked with Mr. Langsdale. I talked with Miss Weyand, and with these people," that doesn't mean—

Mr. Hogsett: Let me finish. You won't let me finish.

I have a right, I submit, to show to you in that connection and in that type of cross-examination as to credit, that a meeting was held of witnesses—proposed witnesses, and that at that meeting the facts were, as the witness has already indicated, gone into in detail, in concert—see?—for two hours.

Trial Examiner Batten: Just a moment, Mr. Hogsett. I don't understand the witness' testimony as being it was [fol. 6022] gone into in concert.

Mr. Hogsett: I do.

Trial Examiner Batten: Then, my recollection is poorer than yours.

Mr. Hogsett: I definitely understand exactly that, that there was a meeting called by Miss Weyand at Mrs. Skeens's home, and it was then for the first time, says the witness, that Miss Weyand went into details. Now, she did it, presumably, in the presence of all of these people. This was no single interrogation of this witness. It was done wholesale—if I may use that expression—so that the facts, may be,—I have a right to draw the inference, and ask you and the Board to do it, that in preparing the case the preparation was handled in that unusual way so that the testimony would coincide.

Trial Examiner Batten: In what unusual way?

Mr. Hogsett: In concert.

Trial Examiner Batten: What is the difference in that, Mr. Hogsett, and having witnesses present at a hearing all of the time, listening to all of the testimony?

Mr. Hogsett: Maybe none.

Trial Examiner Batten: Is there any particular difference?

Mr. Hogsett: Maybe none, but—

Trial Examiner Batten: I don't see, Mr. Hogsett, where going into the details of the thing, after the witness says, [fol. 6023] "Yes, I talked with Miss Weyand—I discussed this with Miss Weyand. She gave me the record and I read the testimony."—I don't see where this other matter is within the usual rule.

Mr. Hogsett: Well, I do. I call your attention to the fact that Mr. Langsdale, in the early days of this hearing, during the first week or ten days of it, on at least a half dozen occasions—several occasions—I don't want to exaggerate, and perhaps I did by saying "a half dozen"—called attention to the fact that witnesses for the respondent were in the courtroom hearing the testimony.

Trial Examiner Batten: Yes. And, Mr. Hogsett,—Pardon my interruption at this point. When Mr. Langsdale started to ask witnesses if they had met in Mr.

Tyler's office, I think the record will show that I intimated at that point I felt that was not a matter for us to go into here in detail; Mr. Tyler had a perfect right to have the witnesses come up to his office; and Mr. Ingraham had—any attorney had the right; that I expected every attorney to prepare his case to expedite this hearing.

Mr. Lane: Mr. Examiner, you will recall that pretty nearly every witness the respondent had on the stand Mr. Langsdale asked if she wasn't present when Mary Warth testified, if she wasn't present when Lois Barnes testified, and so forth, and "Didn't you hear Mary Warth, Lois Barnes, and other witnesses testify to that on the stand?"

[fol. 6024] Trial Examiner Batten: Yes.

Mr. Hogsett: Well, I have said all I am going to on it. I have put my position before you and it is for you to rule.

Trial Examiner Batten: Is there a question pending?

Mr. Hogsett: Yes. In substance, it was this: Who were those present at Mrs. Skeens's home on last Monday evening?

Miss Weyand: I have no objection to the witness stating. If Mr. Langsdale has an objection, the Trial Examiner can rule upon his objection, but I have no objection to the witness stating.

Mr. Langsdale: I withdraw the objection.

Trial Examiner Batten: Now, because you withdraw your objection, it doesn't necessarily mean I will agree with you.

Mr. Langsdale: I don't want to be in conflict with the Board on this matter. But there is a vast difference between asking the witness, merely for the purpose of the record, "Weren't you sitting here and didn't you hear Mrs. Warth—?" and so on, because he knew she had, and the Examiner knew she had; she wasn't revealing anything about the preparation of the lawsuit.

Now, when they try to pry into the preparation, something they don't know as openly and notoriously as we did

that these witnesses were sitting here, I think they have no [fol. 6025] right to do it. But if Miss Weyand has no objection to it, then I have no objection to it.

Trial Examiner Batten: Of course, the fact that Miss Weyand has no objection does not do away with my feeling in the matter.

Mr. Langsdale: Of course, we can't speak for the Examiner.

Trial Examiner Batten: I think the subject matter is gone into as far as should be permitted, unless there is a showing that there were people there who were not attorneys or not witnesses in this case, and I don't think there has been sufficient showing here of a reason or a necessity for going into that meeting or who was present. To use a common term, I think it is fishing, and for that reason I will not permit the witness to disclose the names of those people who were present, Mr. Hogsett.

Mr. Hogsett: I now ask you, Mrs. Dorsey, to give me the names of the persons present in the Labor Board's office with yourself and Miss Weyand on last evening?

Trial Examiner Batten: Well, I think, Mr. Hogsett, that is in the same classification as the other. I think the evidence indicates clearly that it was a matter in connection with the preparation of the case, and I don't think I will permit the witness to disclose it.

Mr. Hogsett: Will you give me, Mrs. Dorsey, the number [fol. 6026] her or approximate number of persons present at Mrs. Skéens's home with yourself and Miss Weyand on Monday evening last?

Trial Examiner Batten: I think that comes within the same ruling, Mr. Hogsett.

Mr. Hogsett: Will you give me, Mrs. Dorsey, the number of persons or the approximate number of persons present in the Labor Board's office last evening with yourself and Miss Weyand?

Trial Examiner Batten: I think that comes within the same ruling.

Mr. Hogsett: Were any persons present at the meeting at Mrs. Skeeps's home connected with the International Ladies' Garment Workers' Union.

Trial Examiner Batten: You may answer.

A. No.

Mr. Hogsett: At the meeting at the Labor Board's office last night was any representative of the International Ladies' Garment Workers' Union present?

Trial Examiner Batten: You may answer.

A. Yes.

Mr. Hogsett: Who was present last evening?

Trial Examiner Batten: You may answer.

A. I don't know her name.

By Mr. Hogsett:

Q. Can you identify her here in the courtroom?
[fol. 6027] A. Yes.

Q. Will you please point out who it was?

(Witness complies.)

Q. That girl sitting over there (pointing), in the last—

Mr. Langsdale: That is Miss Eleanor Blue.

A. That's the girl.

By Mr. Hogsett:

Q. What is her position with the International Ladies' Garment Workers' Union?

A. I don't know.

Mr. Hogsett: Will you indicate that for the record, Mr. Langsdale?

Mr. Langsdale: I couldn't tell you that, myself. I assume she is an organizer. That seems to be her duties.

By Mr. Hogsett:

Q. How long was she present at the meeting last evening?

A. All of the time.

Q. You may have given me the time that meeting lasted, but I, at the moment, don't remember what you said. How long did that meeting last?

A. I said, I think, about 30 minutes.

Mr. Hogsett: That is all.

Trial Examiner Batten: Now, Mr. Hogsett, you may inquire, after that, who was there in addition to—

Mr. Hogsett: Monday night?

[fol. 6928] Trial Examiner Batten: Well, the night this young lady was there.

Mr. Hogsett: Now, I don't want to take advantage there. I believe you misunderstood. There was no International representative present there Monday night.

Trial Examiner Batten: When was she present?

Mr. Hogsett: Last night.

Trial Examiner Batten: Oh.

Mr. Hogsett: I don't want to take advantage—

Trial Examiner Batten: Oh, yes. This is Wednesday, isn't it?

Mr. Hogsett: Yes. Now, have I a right to inquire as to who was present last night?

Trial Examiner Batten: I think so.

Mr. Hogsett: Very well.

By Mr. Hogsett:

Q. Who was present at the meeting in the Labor Board office last evening?

A. Miss Weyand, Miss Blue, myself, and that lady (indicating Miss Boyles).

Trial Examiner Batten: Miss Boyles?

By Mr. Hogsett:

Q. Was anyone else present?

A. No.

Q. Then, the meeting last night included only yourself, as far as any witness was concerned?

A. That's right.

[fol. 6029] Mr. Hogsett: Now, Your Honor, in view of the fact that it now appears that the International is participating, at least to the extent indicated, in the preparation, I respectfully submit, without wishing to be persistent, that I have a right to know who was present at this meeting on Monday night.

Trial Examiner Batten: I think one of the reasons I neglected to mention as to why I don't think you are is because I have asked repeatedly in this hearing, Mr. Hogsett, that the respondent and the intervener cooperate and jointly try to work these matters out so as to take the least amount of time possible, and I on several occasions have asked Miss Weyand and Mr. Langsdale to please get together and work out these matters jointly so that we can avoid as much repetition as possible.

Now, under those circumstances I don't believe that I could agree with you, because of that request of mine, which may have some bearing upon the situation. I have requested that that be done. And I, in addition to that, have not permitted statements on the record here—The fact that Mr. Ingraham and Mr. Lane were cooperating together, or Mr. Langsdale and Miss Weyand—they were doing it at my request.

Mr. Langsdale: Let me suggest, the witness has stated that at the meeting out at the lady's house there was no representative of the International Ladies' Garment Workers' Union, and of course that includes me, because I am [fol. 6030] attorney for that organization.

I wasn't there Monday, Mr. Hogsett.

Mr. Hogsett: I understood her to so say.

Mr. Langsdale: And no one connected with my office was there.

Mr. Hogsett: You have an absolutely clean bill of health, Mr. Langsdale.

Mr. Langsdale: Well, I know—I will just "put the fish on your bait."

Trial Examiner Batten: Is that all?

Mr. Hogsett: That is all, Your Honor.

Trial Examiner Batten: Mr. Lane, or Mr. Tyler?

Cross-Examination.

By Mr. Tyler:

Q. Mrs. Dorsey, did I correctly understand your testimony, that you have not been employed at any other garment plant except the Donnelly plant?

A. You mean, since I quit?

Q. Well, at any time? Have you worked for any other garment plant at any time besides the Donnelly?

A. No. I worked for—it wasn't a garment company, it was just a little embroidery shop. That was called the Elite embroidery shop, and the Brook embroidery shop—those two places, but no garment plants.

Q. When did you work for the Elite embroidery shop?

[fol. 6031] A. They are not in business now. Well, it has been a long time ago.

Q. What is your best estimate?

A. Well, let's see, now. I would say about 19 years.

Q. And what was the name of the other one?

A. Brook.

Q. How long did you work for the Brook shop?

A. Shortly after that.

[fol. 6033] Q. What were the hours of work in the Donnelly plant in March 1939? And I ask you to notice that I am not saying "1937;" I am saying "1939." What were the hours of work in the Donnelly plant in March 1939?

A. Well, as far as I remember, we went to work at 7:30 and got off at 4, and 30 minutes for lunch, and we would have some overtime—special sections worked overtime. But I won't say, at that particular time, what the hours were.

Q. The regular closing hour was 4 o'clock?

[fol. 6034] A. Yes.

Q. What were the working hours in July 1939 at the Donnelly plant?

[fol. 6036] A. The working hours were the same—I usually worked those hours, 7:30 to 4. However, that is around a slack time and they might have varied some.

By Mr. Tyler:

Q. You will notice, Mrs. Dorsey, that I didn't ask what time you usually worked, or if that might vary. I asked what the hours were. Can you tell definitely what the hours were in July 1939?

A. Well, I'll say from 7:30 to 4.

Trial Examiner Batten: You mean, the hours of her—

Mr. Tyler: No. I mean the working hours in the plant.

A. Well, they go to work— You wouldn't suppose me to remember all of the sections, when I wasn't even connected in the sections? My section? Is that what you want to know?

By Mr. Tyler:

Q. I don't think you would know the hours in the plant. Do you know?

A. You mean, my section?

Q. No.

A. You mean—

[fol. 6037] Q: I am asking you if you know what the working hours in the plant were in July 1939?

A. All of the hours?

Q. Yes.

A. All of those people?

Q. Yes.

A. Why, no.

Q. Do you know what the hours of any other section but your own were in July 1939?

A. Well, 411 usually went on the early hour. I don't remember all of those sections— No, I don't.

Q. And when you say "usually," you mean it varied from time to time, don't you?

A. No, they don't vary. What I mean—maybe we would get off an hour early—see?—at slack times.

Q. Yes.

A. But we would go to work at 7:30. The first hour was 7:30, and then they would vary 15 minutes, like that.

Q. They have staggered hours, so that some sections close earlier than others? probably?

A. Do you call that staggered hours?

Q. Well, some sections leave at earlier hours than other sections; is that true?

A. Say we go to work at 7:30 and get off at four, that would be our hours. And if we didn't have work, maybe [fol. 6038] we would get off at 3. And maybe 412 would go to work at a quarter of 8, and they would get off 15 minutes later.

Q. Sometimes they would get off at 4 and sometimes they would get off at 3, wouldn't they?

A. I said, at slack hours. But that was usually the special sections that did that, not the sewing sections.

Q. Can you remember the days when you had slack work and got off at 3?

A. No, I can't.

Q. Do you know of employees going to meetings of the Donnelly Garment Workers' Union after working hours still wearing their aprons?

A. After working hours?

Q. Yes.

A. You mean, when the union was formed?

Q. Yes.

A. No, I don't remember them wearing—I believe some of them did. Maybe they would work a little overtime and would go in their aprons to that meeting and then come back.

Q. And then come back and change their clothes and go home?

A. No. Come back and finish their work.

Q. I asked you if you knew of their going to meetings after working hours were over, still wearing their aprons.

A. No, not after they got through work. They changed their dresses and then went down to the meeting. The [fol. 6039] meeting was arranged so that they could do that.

Q. You say you don't know of any of them going directly to the meeting after working hours, before changing their aprons? A. After working hours?

Q. After they got through.

A. No. I said they changed their clothes, if they were through working.

Q. Some of them did, but didn't some of them go to the meeting wearing their aprons after they finished work?

A. If they had to work overtime. But I don't know what sections they were.

Q. That happened frequently, didn't it?

A. No.

Q. Did you ever do it yourself? A. No.

Q. But you knew of girls going to meetings after working hours, wearing their aprons, didn't you? A. Yes.

Q. How many meetings of the Donnelly Garment Workers' Union did you attend in 1937? That is the year when it was formed.

A. I don't know how many meetings I attended.

Q. You said the meetings were "fast and furious." What did you mean by that?

A. Don't you know what "fast and furious" means?

Q. Not as applied to meetings. Will you tell us your [fol. 6040] understanding of that?

A. We just had a lot of meetings, and I called it "fast and furious." We were called down kind of sudden like for the meetings.

Q. And these employees showed quite a bit of enthusiasm about those meetings, didn't they?

Mr. Langsdale: I object to that question as not proper cross-examination.

Mr. Hogsett: It has already been answered.

Mr. Langsdale: Then, I move that the answer be stricken out, because the question was not proper.

Mr. Tyler: I deny that the question isn't proper. The state of enthusiasm is a matter which, on the witness stand,—

Mr. Langsdale: This witness has not been examined in chief on that.

Mr. Tyler: She said "fast and furious." I have a right to inquire as to what she means by that.

Mr. Langsdale: Meetings called fast and furiously.

Trial Examiner Batten: Will you read the question and answer, please?

(Thereupon the last question was read by the reporter.)

The Reporter: And if there was an answer, I did not hear it.

Trial Examiner Batten: You may answer.

Mr. Langsdale: That, of course, opens up the flood-gates.

[fol. 6041] Trial Examiner Batten: Irrespective of what it opens up, Mr. Langsdale,—

Mr. Langsdale: My objection is, it wasn't gone into on direct examination and is not proper cross-examination.

Trial Examiner Batten: Mr. Langsdale, you do not assume, do you, that we have been proceeding on the basis that you could only cross-examine with respect to matters which were brought out on direct?

Mr. Langsdale: Yes, I have been proceeding on that basis.

Trial Examiner Batten: I don't know of any ruling I made of that nature.

Mr. Langsdale: I think this is the first time it has been objected to on that grounds.

Trial Examiner Batten: You may answer.

A. Yes; at that time.

By Mr. Tyler:

Q. Now, when you told the girls in your section about the meeting of April 27, when the union was organized, did you tell them that they had to go to that meeting?

A. When we had meetings I told them there was to be a meeting. I didn't know it was going to be that—see? I just said, "Girls, there is to be a meeting."

Q. You just told them there was to be a meeting?

A. Yes.

[fol. 6042] Q. Did you order them to attend that meeting?

A. Well, when I told them to do anything, they did what I told them.

Q. Did the mere fact that you said, "There is to be a meeting of the employees," in your opinion amount to an order to attend it?

A. Well, the girls felt like I had the authority—I was given that authority. See?

Mr. Tyler: Now, I object—

Mr. Langsdale: Just a moment. He asked the question, and I suggest that he keeps still until she answers it, and then if he wants to move to strike out any part of it, all right.

Trial Examiner Batten: Just a moment.

Read the question and answer, please.

(Thereupon the last question and answer were read by the reporter.)

Trial Examiner Batten: Now, finish your answer.

A. (Continuing) The girls felt like I had the authority to tell them what to do, and when I said, "Do this," they usually did it.

Mr. Tyler: Now, I move that the answer be stricken out, because it doesn't state whether she felt she was giving the order, but only what she assumes the employees understood, which wasn't the question, and is a conclusion of the witness.

[fol. 6043] Mr. Langsdale: I submit, the answer is a perfect answer to his question. Certainly she has a right to judge from appearances and conduct of these people. And this is a pretty late day for Mr. Tyler to be talking about conclusions of the witness.

Mr. Stottle: Respondent objects because it is not responsive at all to the question.

Trial Examiner Batten: It may stand.

By Mr. Tyler:

Q. Did anybody tell you that you should order the girls to attend this meeting?

A. When I got those telephone calls and Mrs. Wherry come around and told me there was to be a meeting, and me tell the girls, isn't that— That was giving me that privilege, to tell the girls—I was to tell the girls.

Q. So that is what you were to do, tell the girls there was to be a meeting?

A. Tell the girls there was to be a meeting at a certain time.

Q. And that was all, wasn't it?

A. That was all—what?

Q. That you were to do, tell the girls there was to be a meeting.

A. That there was a meeting, sure.

Q. Now, on March 18, 1937—that is the date of the meeting at which Mrs. Reed talked—can you remember [fol. 6044] the girls that were present in your section on that day?

A. No, at the meeting, I couldn't remember all of them.

Q. No. Do you remember who were present in your section working that day?

Mr. Langsdale: That is the March 18 meeting?

Trial Examiner Batten: The question is, does the witness recall the names of the girls working in her section on March 18, the day Mrs. Reed made the talk. Is that right, Mr. Tyler?

Mr. Tyler: That is the question.

A. No, I don't remember the girls.

[fol. 6045] Mr. Tyler: Can you remember whether, on April 27, 1937, which is the date the Donnelly Garment Workers' Union was organized, whether Ida Mauk was working in your section that day?

A. Ida Mauk, she is a zigzag girl.

Mr. Reed: What was that answer? I couldn't hear it.

A. Ida Mauk worked for me.

Mr. Reed: I want the question.

Trial Examiner Batten: Read the question, please.

(Thereupon the last question was read by the reporter.)

A. I don't remember whether she was there or not.

By Mr. Tyler:

Q. Can you remember whether Hazel Hawkins was working in your section on that day? A. No.

Q. Do you remember whether Anna Reece was working in your section on that day?

A. Well, there were other girls there, and I don't remember, some of them could have been working for me, the shirr girls.

Q. How about Ruth Strang?

A. She is the same.

Q. Well, my question is, do you remember whether or not she was working in your section that day? A. No.

Q. Lela Stevens?

[fol. 6046] A. No.

Q. By "no" you mean you do not remember?

A. That's right.

Q. Agnes Hutchinson?

A. No. I'll say this: I believe those girls worked there.

Q. Well, I am just asking if you remember whether they were there or not. Your statement is they might have been? A. Yes.

Trial Examiner Batten: Miss Witness, the question is, do you remember whether these people were there on that date? Now, as a matter of fact, do you remember whether anybody was there on that specific day?

A. Yes, some of them were.

Trial Examiner Batten: I mean by name. Can you name the people that were there on that day?

Mr. Langsdale: Is this April 27, the organization meeting?

Trial Examiner Batten: Yes.

By Trial Examiner Batten:

Q. In other words, can you name the people who were there on that day?

A. Yes, I can name some of them.

Q. At work? A. Yes.

Trial Examiner Batten: Well, proceed, Mr. Tyler.

Mr. Tyler: Go ahead and name the ones that you [fol. 6047] remember that worked in your section on April 27, 1937.

A. I have already said before that Ruby Clayton and Oma Lee Holloway and Edith Dean, and I think Ethel Riegel. I have said that before.

Q. How do you happen to remember those four?

A. And I told you why.

Mr. Langsdale: I object to that as repetition.

Trial Examiner Batten: Now, just a moment.

Trial Examiner Batten: You didn't tell Mr. Tyler why. The question from Mr. Tyler now is—I think it is repetitious, but you may answer the question.

A. I said before—

Trial Examiner Batten: Not as to Mr. Tyler, but repetitions when considering Mr. Hogsett's examination in connection with Mr. Tyler's. But you may answer the question.

Mr. Langsdale: Didn't the Examiner make a ruling it would be repetitious if asked by the intervener when already asked by the respondent?

Trial Examiner Batten: I haven't made any such ruling as that as yet. I have asked you all to avoid it, and perhaps in one or two instances I did feel that it was.

She may answer this question.

A. Well, as I have said before, Ruby hadn't been back very long and we were talking about things, you know, [fol. 6048] that happened, and like I said, Oma Lee comes to me about certain things, and I remember those girls.

By Mr. Tyler:—

Q. Now, will you explain to me why the fact that Ruby hadn't been back very long enabled you to remember she was there on April 27?

A. Ruby had been ill.

Q. How does that help you to remember she was there on April 27, as distinguished from April 26 or April 30?

A. Well, I said she hadn't been back very long.

Q. How does that help you to remember she was there on April 27?

A. Well, I just remember that meeting, that meeting and—

Q. (Interrupting) I am asking about working in your section on April 27. How does that help you to remember she was working in your section on April 27?

A. Well, I said I didn't remember the dates; I remember the meetings at that particular time, and talking to her; she hadn't been back very long. That is what I said.

Q. And that is the only explanation you can give as to how the fact she hadn't been back very long, helps you to remember she was there in your section on April 27, 1937?

Mr. Langsdale: Just a moment. I object to the comment, "That is the only explanation you can give," because it is a perfect reason. She says she remembers talking to her on the day of that meeting.

[fol. 6049] Trial Examiner Batten: Of course, the question has been asked, and I think answered, wasn't it?

A. Yes.

Trial Examiner Batten: Was it not, Mr. Reporter?

The Reporter: No.

Trial Examiner Batten: Well, the reporter tells me it was not answered. Will you read the question to the witness?

(Thereupon the last question was read by the reporter, as follows:)

"Q. And that is the only explanation you can give as to how the fact she hadn't been back very long, helps you to remember she was there in your section on April 27, 1937?"

Mr. Langsdale: Now, just a moment. I object to the question for the further reason it is an incorrect statement of her answer. She answered further she remembered talking to her.

Trial Examiner Batten: Well, you understand the question, Miss Witness, do you? If you do, you may answer. Do you want it read again?

A. No; that is all I can say, that I remember talking to her.

By Mr. Tyler:

Q. Now, that is Ruby you are talking about, that you remember talking to?

A. Those two girls I was talking about, Oma Lee and Ruby.

Q. Where was it you were talking to them on April 27? [fol. 6050] A. In the section.

Q. What time of day was it?

A. I don't know, because we talk to the girls practically all the time, you know, showing them their work and giving them their work; we practically talk to them all day.

Q. Did you talk to those girls in the section that day?

A. Well, I gave them work, and different work was discussed, and they were instructed if they needed to be.

Q. The other girls whose names I have read to you, and whom you said you don't recall being present, might have been present in the section that day, so far as you know?

A. Yes, I might have had that whole row, you see, like I was talking before.

Q. Was Elizabeth Stone working in your section on April 27, 1937?

A. Well, she is a shirr girl, and I can answer the same way.

Q. By that you mean you don't know?

A. I don't remember for sure.

Q. Was Opal Chaney present?

A. That is the same answer, I don't remember.

Q. Would the answer be the same as to Ida Barton?

A. Yes.

Q. And Leona Sams?

A. That's right.

Q. Beatrice Fase?

[fol. 6051] A. That's right. I think I had all those girls at that time.

Q. That is really your answer as to all the girls in your section, that you think you had at that time?

A. I think I had them at that time, but they changed so many times.

Q. On April 27—

A. (Interrupting) And I had so many dealings with girls, I mean I worked with so many; but I don't remember any dates.

Q. You can't remember any of those girls as to the exact date in 1937?

A. You see, I had instructed those girls for some time.

Q. My question was, you can't be sure whether those girls were there in the section on any express date?

A. Those girls you read off.

Q. The answer would be the same as to Iva Andrus?

A. Yes.

Trial Examiner Batten: Mr. Tyler, what is the purpose of naming all those people if she don't remember, except the three she mentioned, and possibly the fourth one? What is to be gained by reading a list of names?

Mr. Tyler: I think the Examiner will see that what is developing is that she has a general belief that certain girls were present, but that she has no memory at all that any particular girls were present at a certain time. She be- [fol. 6052] lieves because they customarily were there, they were present at this time. That is what I am developing, but I don't think I should disclose it in advance.

Miss Weyand: What was that last name you called?

Mr. Tyler: Iva Andrus, A-n-d-r-u-s (Spelling).

By Mr. Tyler:

Q. Would the same be true as to Goldie Spray?

A. No, I don't believe so.

Q. Nina Gilardi?

A. The same there.

Q. Grace Pardone?

A. The same there.

Q. And Anne Belan?

A. Belan—I might have had those girls. Like I said, I know I had a section, but I don't remember who the girls were. Like I said, I had many girls.

Q. Any one of them might have been absent any day in [fol. 6053] March 1937, without your now remembering it, is that it?

Trial Examiner Batten: April, isn't it, Mr. Tyler? Don't you mean April 27, 1937?

Mr. Tyler: I'll make it April.

Trial Examiner Batten: Well, you will make it April. Isn't that the date you have been talking about, April 27?

Mr. Tyler: Yes.

Trial Examiner Batten: That is what I thought you said.

Mr. Tyler: I'll make my question April. Is your answer the same?

A. Yes.

[fol. 6054] Trial Examiner Batten: Let's go back to the question. It seems to me—I believe I don't understand that that is the present question.

(Thereupon the last question was read by the reporter, as follows:

"Q. Any one of them might have been absent any day in March 1937, without your now remembering it, is that it?")

Mr. Tyler: The question is the same, excepting April is inserted instead of March.

Trial Examiner Batten: Then it is my fault the question isn't clear. I asked you, don't you mean April, 1937; so I may have given the witness the wrong impression; so I would suggest that you ask the question again, Mr. Tyler.

Mr. Tyler: Is it not a fact that any one of the girls working in your section might have been absent any day in April, 1937, without your now remembering what date she was absent?

[fol. 6055] Trial Examiner Batten: Well, do you understand the question, Miss Witness? A. Yes.

By Trial Examiner Batten:

Q. Whether they were or might have been absent any one day during that month? A. Yes.

Q. Of April, 1937? A. Yes.

Trial Examiner Batten: You may answer.

A. Well, some of those girls may have been there, but the ones I am talking about were there, but I can't remember what girls weren't there on that particular day.

By Mr. Tyler:

Q. Now, when you say "there", where do you mean?

A. I mean at work.

Q. In your section? A. Yes.

Q. Now, let's go to the letter which was signed on March 2, and you remember—

A. (Interrupting) You mean that petition?

Q. (Continuing)—that was passed through your section? A. That petition you are talking about?

Q. Yes, that petition of March 2, 1937.

A. I don't remember the date, but I remember that petition.

[fol. 6056] Q. Was Thelma Brown working in your section that day? A. I don't remember.

Q. Was Margaret McArthur working in your section that day? A. I don't remember.

Q. Was Estelle Redena working in your section that day? A. Well, she could have been.

Q. Was Lela Stevens working in your section that day?

A. You named her once; she is a shirr girl.

Q. I am talking about March 2 now. We have been talking about April 27, but we are talking about March 2 now. Was she working in your section on March 2, 1937?

A. Well, she could have been. I don't remember.

Q. Was Anna Reece working there that day?

A. It could be; the same answer that way.

Q. That would be the same answer?

A. I don't remember.

Q. As to any girl that worked in your section that month, as to whether you are certain whether she was there on March 2, your answer would be, "I don't remember," would it?

A. Yes.

By Mr. Tyler:

Q. And would the same thing be true as to girls who [fol. 6057] worked in your section on March 30, 1937?

A. No, that wouldn't be true.

Q. You do remember some girls who worked in your section on the 30th day of March, 1937; is that correct?

A. Well, I ought to have had the same girls that I had.

Trial Examiner Batten: Well, the question is, Miss Witness, do you remember the specific names of the girls who worked in your section on the 30th day of March.

Trial Examiner Batten: Isn't that the question?

Mr. Tyler: Yes.

Mr. Reed: Or any of them.

By Mr. Tyler:

Q. I am not asking for your belief that it is probable that they worked there, because you think they generally did work in your section along about that time of that year. I am not asking for that.

I am asking for your exact memory as to whether you remember any specific girl who worked in your section on the 30th day of March, 1937.

A. Yes.

Q. Not that she probably might have, but did you actually remember any girl there?

A. That was two days after the meeting, and I think the girls worked for me then.

Mr. Tyler: Well, I ask that the answer be stricken out because again she is giving her impression as to what she [fol. 6058] thinks is probable.

Mr. Tyler: My question is: do you know of your own recollection of any girls whom you know were working in your section on the 30th day of March, 1937?

A. No. All I can say, is the same girls ought to have been working for me, that is, the girls that we have been talking about.

By Trial Examiner Batten:

Q. Well, Miss Witness, then you can't name the girls who reported to work to you on the morning of March 30, by name, can you? A. No, not all of them.

Q. Well, can you name any girl? A. No.

Q. Can you name any single girl that reported to you on the morning of March 30 to work in your section?

A. No, not now. I can't remember.

[fol. 6059] By Mr. Tyler:

Q. You stated in your direct testimony that it appeared on the cards of the girls in your section that they were paid for time spent in attending meetings, is that correct?

A. What do you mean, "appeared on the cards"?

Q. That is what I am asking you.

A. Well, I said they were allowed on the cards.

Q. What words appeared on the cards indicating that?

A. It was just added down there, they just got so much for that meeting, and I don't think the meeting or anything was on the card, but we just had so much on the card added [fol. 6060] to their wages, and we were told that that was their allowance for that meeting.

Q. There was some figure?

A. Oh, there might have been some little something.

Q. Some amount of money stated on the card, is that correct?

A. Yes, just an allowance, you know.

Q. And there was nothing explaining what that allowance was for on the card?

A. I don't believe there was.

Q. Now, who told you that was an allowance for attending meetings?

A. Well, I don't remember who told me that, that particular thing, but we all—all we instructors were told that.

Q. You heard all instructors being told that, did you?

A. No, but we talked about it.

Q. You don't know that all instructors were told that?

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter.)

Trial Examiner Batten: You may answer.

A. No, I don't know they were all told.

By Mr. Tyler:

Q. You didn't hear them being told that? A. No.

Q. And you can't remember who told you that?

A. No.

[fol. 6061] Q. And you don't remember anything on the card indicating what this additional sum was for?

A. No.

Q. Are you sure there was an additional sum on the card?

A. Yes, it was added on because I was told that was what it was for, for the meeting, that the girls were going to be paid for the meeting.

Q. And how long did that continue?

A. I don't know.

Q. As long as you were there?

A. What time we had the meeting and went downstairs.

Q. That applied no matter what time the meetings were held?

A. Oh, no, that applied during working hours, when the girls lost time.

Q. And how many times did you see an additional sum put down on the cards in addition to their regular pay?

A. I don't know.

Q. Well, would you say it was a dozen or 20?

A. I wouldn't say. I will say I don't remember.

Q. You don't remember? A. No.

Trial Examiner Batten: Miss Witness, I was going to ask you a moment ago, you mean there was a time allowance or a money allowance?

A. A money allowance. It was just down there like they [fol. 6062] had given them—we will say the meeting lasted an hour and a half, or an hour, or maybe longer, well, they paid the girls for going to those meetings, they didn't lose their time.

By Mr. Tyler:

Q. When did you first notice that, Mrs. Dorsey?

A. Well, when we started to have those meetings.

Q. How did you happen to notice it at that time, do you remember?

A. I didn't notice it, they called my attention to it.

Q. Who called your attention to it?

A. I told you I didn't remember.

Q. Well, you told me you didn't know who told you they were paid for meetings.

A. Well, I don't remember who told me.

Q. But you don't remember who called your attention to it?

A. Whoever told me, that is what I mean by calling it to my attention.

Q. And that applied to both Loyalty League meetings and Donnelly Garment Workers' Union meetings?

A. I said all meetings.

Q. All meetings? A. Yes.

Q. When did the first of such allowances appear on the cards in your section the first time it was put down, when was that?

[fol. 6063] A. I don't remember; when the meetings began.

Q. When did you first mention that to anyone?

A. Mention what?

Q. The statement that there was an allowance put on the cards for attending meetings?

A. Well, sometimes a girl would say, "Oh, another meeting," and I would say, "Well, now, you girls are going to get paid for this meeting," and they wouldn't care as long as they got paid, it was all right.

Q. And who authorized you to say that?

A. I told you I don't remember.

Q. You spoke of Mrs. Reeves telling you that the instructors were on a pedestal? A. Oh, no.

Q. I thought you used the words, "on a pedestal."

A. I did, but the instructor is not on a pedestal. I said that the girls—she said that the girls held us on a pedestal and we should act accordingly.

Q. When was that Mrs. Reeves told you that?

A. I don't remember. It has been a long time ago.

Q. You don't know whether it was when she was in charge of the plant or not? A. Why sure.

Q. That was when she was in charge? A. Yes.

[fol. 6064] Q. And that was a long time ago?

A. That is quite a long while ago.

Q. You mentioned that you remembered times when the girls came back from meetings in uniform, and the girls said, "Will you put our work away."

A. Yes.

Q. Does that mean they were through with their work when they came back from the meeting, and they weren't going to do any more work?

A. No, that meant it was time for them to go home. When we went down for this meeting, they left their work, it was a hurriedly called meeting and they left their work on their machines and went right on down to the meetings, and stayed so long, and then it was time for them to go home; and some of them said, "Dorsey, will you put my work away," and I said, "Go on home, I will put your work away."

Q. They were through with their work, except for putting it away?

A. No, they weren't through with their work, they finished it the next day.

[fol. 6065] Q. Well, that is true, but if the girls came back upstairs, all they would have to do that night was to put the bundle away until the next day, isn't that right?

A. Yes.

Q. You mentioned suggesting to some girls that they were not free, the girls were not free to talk in the presence of the instructor.

A. The girls weren't free? I didn't say they were not free; I said that we heard they didn't feel free to talk in the presence of the instructors.

Q. And you volunteered that instruction to the girls?
[fol. 6066] A. No, she asked me.

Q. I understood your testimony was that you said to her, "You girls aren't free to talk in the presence of the instructor."

A. No.

Q. And she said, "Yes, but I am willing to talk in your presence."

A. No.

Q. Well, will you correct me on that?

A. No, she asked me, she said, "Dorsey, who don't the instructors go to our meetings any more," and I said, "Well, Nina, I heard you girls didn't feel free to talk when the instructors were present," and she said, "Well, maybe some of them don't, but it don't make any difference to me, I would."

Q. That is the way all the girls in your section felt?

A. No, they didn't. This particular girl felt that way.

Q. Will you state which particular ones were afraid to talk in your presence?

A. No, they didn't tell me. I just heard the girls talking.

Q. You didn't hear any one of them say she was afraid to talk?

A. I heard them, but I can't recall names, but this particular girl asked me that question, that is why I remember her.

[fol. 6067] Q. Well, isn't it the fact that particular girls said to you, "I feel afraid to talk if my instructor is present," or is it a fact that you heard a rumor that some of the girls felt that way?

A. I didn't hear no rumor, I heard girls talking.

Q. To you?

A. No, I heard it — you see, I just overheard conversations, but I can't say who the girls were.

Q. What were the conversations?

A. They just said they didn't think the instructors should be at those meetings.

Q. Is that all they said?

A. They said some of the girls wouldn't get up and talk if they were there; they said if they did the instructor would have it in for them, that they felt that way.

Q. How many times did you hear that?

A. I don't remember.

Q. And do you remember any of the girls that took part in the conversations?

A. No, I don't.

Q. Were you just passing by and heard that much of the conversation?

A. Well, I may have been. I don't remember now.

Q. What it adds up to is that you heard somebody make the statement that you have just said, in some conversation when you were passing by?

A. It might have been down to the lunch room when I was sitting there eating.

Q. Do you remember what year that was in?

A. I don't remember.

Q. And what place was it in?

A. Place?

Q. Yes.

A. I don't know what spot it was or place.

Q. And you don't remember any girl that was in the conversation?

A. No, because — well, I sort of felt that way myself, that the instructor didn't have any business being there.

Q. You mentioned that when Mrs. Reed made her statement in the March 18 meeting, you didn't blame her. What did you mean by that?

A. Well, I don't know whether that is March 18, whether that is the date or not, but at one meeting I said this, when she said she was not going to have any Dubinsky or any 'sky tell her how to run her business, I said I didn't blame her.

Q. You agreed with that, did you?

A. Yes.

Q. Do you still agree with it?

A. Yes, I did.

Q. Do you still agree with it?

[fol. 6069] A. Yes, I do.

Q. Did you attend any meetings of the Donnelly Garment Workers' Union, after July 1937?

A. I don't remember. I said I didn't attend very many meetings, so I don't remember.

Q. Did Mrs. Wherry give you any instructions about attending meetings, or telling the girls about meetings, after July 1937?

A. I don't remember.

Q. You think she may have?

A. No, I don't remember.

Trial Examiner Batten: Miss Weyand?

Redirect Examination.

By Miss Weyand:

Q. Weren't you mistaken about whether any representative of the International was at Mrs. Skeens' home Monday night, and wasn't Mrs. Blue there from a short time after the time we went into Mrs. Skeens' house until we left?

Mr. Lane: That is objected to as not proper redirect examination.

Trial Examiner Batten: She may answer.

Mr. Lane: And an attempt to rehabilitate her own witness.

Trial Examiner Batten: You may answer.

[fol. 6070] A. Well, I was just thinking. Let's see — well, I remember now that she was going to set out in the car, and you said "Miss Blue, you come on in with us." I do remember now, that's right.

Q. And she came in later, did she?

A. Yes, that's right; I am sorry.

Q. Do you remember whether Iva Andrus was working in your section around the time of the Sylvia Hull incident?

A. Yes, Iva was, because I remember her crying; yes, I remember that.

Q. And when you said you were through with work, did you mean you were through with the work before the meetings began or the girls were through when the meeting was over, because it was the end of the working hours?

[fol. 6071] A. I mean the girls were not through with their work when they were called down to that meeting, and their bundles and their work was on the machines, and they asked me if I would put their work away, because after the meeting it was time for them to go home, they were anxious to go home, and I said, "You go on home, and I'll put your work away."

By Miss Weyand:

Q. And when did they ask you that, before the meeting or at the end of the meeting?

A. No, afterwards. Some of them, just like that, she said, "~~Dorsey~~" whoever the girls were, there were several of them — and when one asked you to do one thing, there are more that ask you to do the same thing.

Q. Do you remember anyone other than Lena Allison, who was your instructor when you were working in the Coca-Cola Building, and who was your instructor?

A. Yes, Resé Todd. She had charge of the sample room, [fol. 6072] and I worked in the sample room too. Yes, she was the instructor.

Q. Do you feel that you are unfriendly to Mrs. Reed?

A. No, I certainly don't.

Q. Do you feel that you are unfriendly to Mr. Baty?

A. No.

[fol. 6073] Recross-Examination.

By Mr. Ingraham:

Q. I believe you stated that there were allowances made to operator.

Miss Weyand: I object to the question as not proper recross-examination.

Mr. Ingraham: Mr. Tyler asked her a question, as I understood, about being paid for the time that was spent in union meetings, and the witness answered that, yes, there were allowances made.

Trial Examiner Batten: I think on the other examination of this witness by Mr. Hogsett, he also, did he not, said something about that?

Mr. Ingraham: I don't believe so.

Trial Examiner Batten: Of course, if he didn't, he had the opportunity to.

Mr. Ingraham: Well, that was the first time the word "allowances" was used.

Trial Examiner Batten: Of course, in the direct testimony it was stated it was indicated on the card. Mr. Tyler, of course, brought out more of the details on it.

In this instance you may proceed, but after this let's confine it, as nearly as possible,—

By Mr. Ingraham:

Q. Will you state what allowances were made to operators, for what purpose?

[fol. 6074] A. What allowances?

Q. Yes.

A. Well, like I said, those meetings—they— When a girl loses time, she don't lose it on her own time; that is the allowance they pay.

Q. Was the allowance made for these meetings you have testified about the only allowances that were made to operators?

A. No. The girls get paid for machine time they have lost.

Q. Are there any other types of allowances that are made?

A. I know that the girls, whenever they lose time for meetings, or anything like that, they get paid for it.

Q. Do they get allowances if they do not make their minimum?

A. Well, their guarantee, you mean?

Q. Yes.

A. They are made up to that, yes.

Q. Now, outside of time lost on the machine and the money that is made up on the guarantee, what other types of allowances are made by the company?

A. Well, I don't recall any.

Mr. Ingraham: I will have this marked for identification—

Trial Examiner Batten: Incidentally, have you brought the other copy of the Judge Miller findings yet?

Mr. Ingraham: No. I will do that.

[fol. 6075] Miss. Weyand: Have you brought the Tyler statement?

Mr. Ingraham: I will do that.

Miss Weyand: When can we have that?

Mr. Ingraham: This afternoon.

By Mr. Ingraham:

Q. If there is a mistake made in cutting of the particular part of the garment that the girl is working on and the girl loses time on that account, is she paid an allowance for that?

A. You mean, when it is somebody else's mistake?

Q. Yes.

A. If she loses a lot of time, more than a half an hour, that time is turned in by the instructor and is charged to that department.

Q. And if a girl has some repairs to make that are not her fault, are allowances made for that?

A. Well, usually all girls fix their own repairs, if they have time, and that is on their own.

Q. If, for some reason, it wasn't the girl's fault,—

A. You mean, somebody else's mistake?

Q. Yes.

A. Well, that's practically the same thing.

Q. Then, she would get an allowance for that?

A. She would get allowed her time it took to fix that over, yes.

Q. I will hand you respondent's exhibit No. 44 and ask [fol. 6076] if you will look at this document and state whether or not you worked in the sections shown on the document during the times stated. For instance, the first item would be November 1, 1925, to November 5, 1936. You were in section 415. Have you any recollection of that?

A. No, I don't remember it.

(Thereupon the employment card above referred to was marked "Respondent's Exhibit No. 44, Witness Dorsey," for identification.)

Q. Will you examine this document and look at the dates and see whether or not you worked in the sections listed in that column, being 523 or 415?

Mr. Langsdale: Is this the same document Mr. Hogsett apparently was reading from?

Mr. Ingraham: Yes.

Mr. Langsdale: Of course, it isn't proper recross examination. He had an opportunity to examine her about it then.

Trial Examiner Batten: I don't think it is either, but let's proceed and get through with this witness. And after this, let's not go back over these matters.

A. No, I couldn't say I remember it.

By Mr. Ingraham:

Q. Would you remember, in working in section 942—

A. Let me see that again.

[fol. 6077] Q. Yes. (Handing Respondent's Exhibit No. 44 to the witness.)

A. That's (indicating) 42.

Q. That is 1942. This is January 22, 1942. Did you work in section 942? A. You mean, notions?

Q. Yes.

A. I worked in the notions.

Q. Before that, in November, 1941, did you work in section 515? That was the period when you worked in the notions?

A. That was when I was a floor girl.

Mr. Langsdale: I would like to hear this clandestine conversation that is going on.

Trial Examiner Batten: Will you speak louder, both of you?

By Mr. Ingraham:

Q. Is that correct? A. In 515?

Q. Yes.

A. Yes, I worked just a short while in that 515 section. That is when I said I was a floor girl.

Miss Weyand: You had better look at those dates on that and—

Trial Examiner Batten: The question wasn't as to the dates. The question was, if she worked there.

Miss Weyand: He said, prior to that time. She had better look at the dates on this—

[fol. 6078] Mr. Reed: I submit, that is hardly proper, for counsel to tell her own witness that she had better do this or that when she is on the witness stand. I object to that sort of practice.

Trial Examiner Batten: You may proceed with your questions, Mr. Ingraham.

By Mr. Ingraham:

Q. Prior to the time you worked in 515 did you work in 531?

A. Like I said, I've been changed around so much, I just can't remember.

Q. Would you say you did not work in 531?

A. I don't remember the dates—see? I've worked around, in 531, and— Oh, I've worked around in so many sections, and they change so much all of the time, I don't remember.

Q. Did you ever work in 518? A. Yes, I have.

Q. Do you recall whether or not you worked in 518 from November, 1936, to August, 1937?

A. No. I think that was when I was up on the eighth floor.

Q. Would you say you were not in 518?

A. I would say I was up on the eighth floor, in 515.

Q. Where was 518?

A. Oh, I don't know right now. They changed them around.

Q. Wasn't 518 always on one particular floor?

A. No. They changed those special sections around. That is a special section.

[fol. 6079] Q. What section did you work in when you worked on the seventh floor? A. On the seventh floor?

Q. Yes. A. 515.

Q. 518, you mean?

A. 515. That was on seventh.

Q. Was 518 on seventh?

A. I don't remember.

Mr. Ingraham: Respondent offers in evidence respondent's exhibit No. 44.

Trial Examiner Batten: There is no objection?

(No response.)

It will be received, subject to, of course, some further identification as being a part of the respondent's records.

Mr. Ingraham: Yes.

(Thereupon the employment card above referred to, previously marked for identification "Respondent's Exhibit No. 44, Witness Dorsey," was received in evidence.)

Mr. Tyler: Did you ask to have it marked for identification?

Mr. Ingraham: It has been, exhibit No. 44.

Mr. Langsdale: Will that be photostated, as other exhibits?

[fol. 6080] Mr. Ingraham: Yes.

Mr. Langsdale: And copies furnished to all of the parties?

Mr. Ingraham: Yes.

That is all.

Trial Examiner Batten: Mr. Tyler?

Mr. Tyler: That is all.

Trial Examiner Batten: Miss Weyand?

Redirect Examination.

Miss Weyand: Do you know whether or not the section number which appeared on your check stub was always the same section in which you had been working for the period of the check?

Mr. Ingraham: Now, I object to that. It isn't proper re—rebuttal—redirect examination.

Trial Examiner Batten: Of course, I think this is as proper re—rebuttal as part of your examination was re—recross, Mr. Ingraham.

You may proceed.

A. Well, if I understand what you mean, the—like our time card and our check card is the same?

By Miss Weyand:

Q. Do they always agree with the section you were working in at the time you were working there?

A. No, not always. Sometimes I would change and my time card isn't changed until a period of time—it just don't make any difference—just sometime—I guess just when the office gets time to change it.

[fol. 6081] Q. What is the longest period you remember ever working in one section?

A. The longest period? Perhaps 415 was my longest period in several years, but I don't remember how long. Like I say, it changed around.

Q. You mentioned seasons in the business. Can you explain how that affected what section you worked in?

A. Yes. Like the hemstitching season. On the spring line and the summer line we had a lot of hemstitching, and the zigzagging, and lace work—I didn't say that before, but I am saying it now—that's seasonal. And when they get the amount of work they was going to cut through, then that's the season—that's over—see?

Trial Examiner Batten: Miss Weyand, was there anything in Mr. Ingraham's last examination about a season?

Miss Weyand: This all pertains to the state of that card—

Trial Examiner Batten: It pertains to it, but—I will permit you to proceed, but when you are through with this witness I have a suggestion to make.

Miss Weyand: When he put that card in, I think it is material to show—

Trial Examiner Batten: Well, proceed.

By Miss Weyand:

Q. When new lines came in that required new special machine operations, would that change the section in which [fol. 6082] you worked?

A. Sometimes, yes.

Q. How short a time were you sometimes in a given section? A. How short a time?

Q. Yes.

A. What was that question?

Q. How short a time would it be, a few weeks sometimes, you would be in a section, and then be changed to another section a few weeks later?

A. Yes, sometimes.

Q. Did that happen around 1936, 1937, and 1938?

A. Yes. The changes were made— Just like, as I said before, the special section has just always changed like that.

[fol. 6083] Miss Weyand: I would like to ask Mr. Ingraham, first, whether he has brought the list of retainerships in which Mr. Tyler appeared.

Mr. Ingraham: Yes.

[fol. 6084] Trial Examiner Batten: That list you were going to show to me, Mr. Ingraham,— I think I asked to see it before you presented it.

Mr. Ingraham: Yes. (Handing document to Trial Examiner Batten.)

Miss Weyand: This is a complete list of all of the matters in which Mr. Tyler or any member of the firm of Gossett, Ellis, Dietrich & Tyler—or whatever its name was during the various periods—appeared on behalf of Mrs. Reed or the Donnelly Garment Company or the Donnelly Garment Sales Company; is that correct?

Mr. Ingraham: That is correct.

Trial Examiner Batten: Of course, in view of your question at this place in the record, Miss Weyand, I presume we had better clear this matter up.

Miss Weyand: I would like to examine it further. I just wanted an exact statement of what it purported to be, so that I would know in examining it just what it purports to be. I would like to examine it further before making any comments about it.

Trial Examiner Batten: I was going to say, it goes down to 1932, and, of course, unless there is some question concerning the correctness of it, I don't think there is anything here that is material to the issues in this case.

Have you any objection, Mr. Ingraham, if counsel see it?
[fol. 6085] Mr. Ingraham: No.

Miss Weyand: I would like to examine it and decide later if I want to use it in connection with some other matters.

(Thereupon the document above referred to was handed to Miss Weyand by Trial Examiner Batten.)

By Miss Weyand:

Q. Mrs. Dorsey, I am going to hand you respondent's exhibit No. 44 and ask you whether from November 9, 1936, until July 30, 1937, you worked in section 518.

A. No, not all of that time, because in March and April I was up on the eighth floor, in 415.

Q. Do you recall when you went up in 415?

A. Do I recall the date?

Q. About what time it was?

A. No, I don't recall the date.

Q. But you had left the seventh floor and gone up to the eighth floor before March and April of 1937; is that correct?

A. That's right.

Recross Examination.

By Mr. Hogsett:

Q. Now, apropos of that last series of questions, I hand you four pay checks issued by the Donnelly Garment [fol. 6086] Company to Etta Dorsey, on the dates of March 16, 1937, April 1, 1937, April 16, 1937, and April 30, 1937, calling your particular attention to the endorsements on the back of each of the four checks, and ask you if those are your endorsements and—

By Mr. Hogsett:

Q. (Continuing) —and ask you whether you identify those endorsements as yours, and whether you identify those pay checks as pay checks cashed by you on the dates shown by the bank cancellation stamp on each check.

(Thereupon the pay checks referred to in the last question were handed to Mr. Langsdale and Miss Weyand by Mr. Hogsett, and, following Mr. Langsdale's and Miss Weyand's perusal, were handed to the witness by Mr. Hogsett.)

A. That's my signature (indicating on pay check).

Mr. Hogsett: Just look at each of the four, please, and then one answer can cover all.

A. That's right. That's my signature (indicating on pay check).

[fol. 6087] Mr. Hogsett: And when you say, "That's my signature," you mean the endorsement on each of the four checks which I am holding in my hand is your signature—each endorsement is?

Trial Examiner Batten: Mr. Hogsett, if you will have them marked for identification, she can testify to them by the numbers on them.

Mr. Hogsett: All right.

Trial Examiner Batten: Those will be, I believe, 45-A, 45-B, 45-C, and 45-D.

Mr. Hogsett: I hand you respondent's exhibit No. 45-A, being the pay check of March 16, 1937, and ask you if you identify that endorsement as yours.

A. That's my signature.

Mr. Hogsett: I offer that in evidence.

[fol. 6088] Mr. Hogsett: I hand you respondent's exhibit No. 45-B, and ask you if you identify the endorsement on that as your signature.

A. That's right.

Mr. Hogsett: I offer in evidence that exhibit.

Q. I hand you respondent's exhibit No. 45-C, and ask you if you identify the endorsement on that exhibit as your signature.

A. Yes, that's mine.

Q. I hand you respondent's exhibit No. 45-D, and ask you the same question with respect to that endorsement.

A. That's my signature.

Mr. Hogsett: I offer in evidence respondent's exhibits Nos. 45-A to 45-D, inclusive.

Trial Examiner Batten: No objection?

(No response.)

They will be received.

By Mr. Hogsett:

Q. I note on each of these checks that certain numbers appear above your name. Do you note that? It is 487-09-5709. Do you note that on each check—this (indicating on check)?

A. Yes.

Q. That is your social security number, is it not?

[fol. 6089] A. That's right.

Q. I notice on the line immediately following the payee's name on each check appear these figures (.15 - .07). You see that?

A. Yes.

Q. Now, those indicate what?

A. Insurance.

Q. Insurance and— Something else?

A. Old age pension.

Q. In other words, those were deductions which the company made from the amount actually due you; is that right?

A. That's right.

Q. Now, I notice ahead of the name, the payee, on each of the checks, appear these figures, 95.518. You note that on each one, don't you?

A. Yes.

Q. 95 was your instructor's locker number, wasn't it?

A. Yes, it was my number.

Q. Or, rather, your time clock number? I misstated myself there.

A. Yes.

Q. That is what the 95 means?

A. Yes.

Q. What does the 518 mean?

A. 518 means the section.

[fol. 6090] Q. Exactly. So, according—

Mr. Langsdale: Just a moment. I move that the comment "Exactly" be stricken out.

Trial Examiner Batten: Of course, there is no question.

Mr. Langsdale: No.

Trial Examiner Batten: It may be stricken.

Mr. Hogsett: So, on each check, your own pay check for each of these semimonthly periods records you as having time clock number 95 and section number 518—yes or no? Is that right?

Miss Weyand: They speak for themselves, I think.

Mr. Hogsett: Well, is that true?

Trial Examiner Batten: The witness may testify to them.

A. Yes.

[fol. 6091] Mr. Högsett: Please give me the names of the persons present at Mrs. Skeens' home on Monday evening.

[fol. 6092] A. Mrs. Skeens, Miss Weyand, and myself, and Miss Blue—I believe it is—and this lady (pointing to Miss Boys).

[fol. 6093] LOLA SKEENS, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

By Miss Weyand:

Q. Will you please state your name?

A. Lola Skeens.

[fol. 6094] Q. Where do you reside?

A. 4812 West Fifty-second, Mission, Kans.

Q. When did you begin to work at the Donnelly Garment Company?

A. September 21, 1922.

Q. How long did you continue to work at the Donnelly Garment Company?

A. I worked there 17 years, with 2 years out when my son was born.

Q. What was the approximate date of those 2 years out?

A. Well, I left there—I think it was September 1, 1931, and I couldn't tell you just for sure when I came back.

Q. That was when you started the 2 years out; is that correct?

A. Yes.

By Miss Weyand:

Q. When you first went to work for the Donnelly Garment Company what kind of work did you do?

A. The first three weeks I was on a machine.

Q. What did you do next?

A. I gave out repair work.

Q. For how long?

A. I don't know for sure. Two or three months, I should say.

[fol. 6095] Q. What did you do next?

A. Instructed.

Q. How long did you continue to be an instructor?

A. From then on.

By Trial Examiner Batten:

Q. Until when? When did you leave there?

A. When did I leave there?

Q. Yes.

A. September 19, 1941.

By Miss Weyand:

Q. What section were you the instructor of in March and April of 1937?

A. 413.

Q. On what floor was that located?

A. Eighth floor.

Q. Do you know Sally Ormsby?

A. Yes, I do.

Q. Did she work in your section in 1937?

A. Yes.

Q. Do you know whether she held any position in the Dannelly Garment Workers' Union?

A. She was a representative for the operators.

[fol. 6096] By Miss Weyand:

Q. And she was in your section at the time she was representative for the operators; is that correct?

A. Yes.

Q. Do you know of any occasions upon which she went to Mr. Tyler's office or attended to business of the Dannelly Garment Workers' Union during working hours?

Mr. Hogsett: Objected to as not rebuttal of anything in the respondent's case.

Miss Weyand: I maintain it is rebuttal of Mrs. Reed's testimony that there was no support given to the Dannelly

Garment Workers' Union, and I intend by this witness to show that there was support given.

Mr. Hogsett: Which is a part of the Board's case in chief, clearly. No witness, in other words, for the respondent, so far as I am informed, has testified that Sally Ormsby did not or did go to see Mr. Tyler during working hours. In other words, our case did not include that, so this is not rebuttal of any part of our case.

Miss Weyand: I also maintain it is in rebuttal because it explains certain evidence offered by the company and the intervener in respect to the journeys of employees to see Mr. Tyler preparatory to forming the union.

[fol. 6097] Mr. Hogsett: All of which was a part of the Board's case in chief.

Miss Weyand: It was entirely new matter Mr. Tyler raised here. It was never the company's contention before that there had been a committee appointed at the meeting of March 18. For the first time, on this remand witnesses for the company testified that such a committee was appointed at that meeting, and it is certainly rebuttal at this time to explain that which was never maintained by any of the company's or intervener's witnesses prior thereto.

Mr. Hogsett: Now, I have the belief that counsel is wrong. I think I recall reading such testimony as having been given by Rose Todd at the 1939 hearing.

Mr. Langsdale: Mr. Hogsett is wrong. Rose Todd's testimony was just to the contrary. In addition to that, the intervener filed an offer of proof signed by some 20 people, which they evidently have overlooked at this hearing, to the contrary, and that is that Rose Todd, Sally Ormsby, and Hobart Atherton went to see these attorneys on their own and without a suggestion from anybody. That is one of the offers of proof they have in this case.

Now, they come forward at this hearing with some entirely different theory and some new witnesses who say there was a committee appointed at the March 18 meeting.

Trial Examiner Batten: Well, I wouldn't attempt to [fol. 6098] remember the testimony. So, you may proceed.

Trial Examiner Batten: You may answer.

Mr. Reed: Now, that embraces more than whether she went to his office. The question is, whether she knows of any occasion when she went to his office or attended to business of the union on company time. Now, that is not in rebuttal of anything we have put in this case.

Trial Examiner Batten: You may answer.

A. She did go, because she would come back and give me her time and ask me to make out her time ticket.

By Miss Weyand:

Q. Did you make out her time tickets?

A. Yes.

Q. And was she so paid?

A. Yes.

Q. And was that true every time she left work to go to see Mr. Tyler?

[fol. 6099] A. During working hours, yes.

Q. Did the time tickets show what she was doing?

A. Yes, they did for a while.

Q. Did you write it on?

A. I wrote on it, "For union meeting."

Q. Did you do that on all occasions?

A. I did at first, and then Miss Todd came to me and asked me not to put that on. And I asked her what I should write, and she said just to put it under "Miscellaneous" and they would understand.

Q. And did you follow Miss Todd's direction?

A. Yes, I did.

Q. Do you know Hazel Saucke?

A. Yes.

Q. Did she ever work in your section?

A. She did.

Q. Do you know Lois Barnes?

A. Yes.

Q. Did she ever work in your section?

A. Yes.

Q. Did you know Lydia Phillips?

A. Yes.

Q. Did she ever work in your section?

A. She did.

Q. Did you attend the meeting at which the Donnelly [fol. 6100] Garment Workers' Union was organized?

A. I did.

Q. Did you know before you got to that meeting that a union was going to be formed at the meeting?

A. I did.

Q. How did you learn of that meeting?

A. Mrs. Wherry told me.

Q. Do you know how the girls working in your section learned of the meeting?

A. I told them.

Mr. Ingraham: May respondent have a continuing objection to this line of questioning?

Trial Examiner Batten: Yes.

Mr. Hogsett: As not rebuttal.

Trial Examiner Batten: I presume it is upon the same grounds stated as to the previous witness.

Mr. Ingraham: Yes.

Mr. Hogsett: That's right.

By Miss Weyand:

Q. At what time of day was the meeting held?

A. I'm not sure what exact time. It was around 2:30, I think.

Q. Did the girls in your section wear their uniforms to the meeting?

A. Yes.

[fol. 6101] Trial Examiner Batten: Keep your voice up. When you were there in the plant, with machines running, and you had to talk to the girls, didn't you talk louder than that?

The Witness: I guess so.

Trial Examiner Batten: Well, try to talk louder here.

By Miss Weyand:

Q. Did you go to the meetings with the girls in your section?

A. Yes, I did.

Q. Did you sit with them at the meetings?

A. Part of them.

Q. Were the girls in your section paid for the time they spent at that meeting?

A. They was.

Q. Was an entry made on the girl's card to show she was to be paid?

A. There was.

Q. Did you see that entry?

A. Yes.

Q. Did the girls know before they went to the meeting that they would be paid for the time they spent there?

Mr. Reed: Wait a minute.

A. Not the first meeting.

Trial Examiner Batten: Senator?

Mr. Reed: I wanted to object to it, because—

Mr. Hogsett: She said, "Not the first meeting."

[fol. 6102] Mr. Reed: She did not? I couldn't hear it.

Mr. Langsdale: What was the question and answer?

Trial Examiner Batten: Read the last question and answer, please.

(Thereupon the last question and answer were read by the reporter, as follows:

"Q. Did the girls know before they went to the meeting that they would be paid for the time they spent there?

"A. Not the first meeting.")

Miss Weyand: Did they as to later meetings?

Mr. Reed: I object to that as calling for a mere conclusion and not giving us the benefit of any facts that may exist.

Trial Examiner Batten: You may answer.

Mr. Reed: Mere opinion.

A. As to later meetings?

By Miss Weyand:

Q. Yes. A. They knew then they would be.

Q. Did you ever hear of the employees raising a fund to pay Mr. Tyler a retainer fee prior to the meeting at which the Donnelly Garment Workers' Union was organized? A. No.

Trial Examiner Batten: You will have to speak louder, Mrs. Skeens.

The Witness: No.

[fol. 6103] Miss Weyand: Do you know whether the company intended for instructors to go to meetings of the Donnelly Garment Workers' Union along with—

Mr. Hogsett: Objected to.

Trial Examiner Batten: Just a minute. Did you get the question, Miss Reporter?

The Reporter: No.

Trial Examiner Batten: Will you read it as far as—

The Reporter (Reading): "Do you know whether the company intended for instructors to go to meetings of the Donnelly Garment Workers' Union along with—"

Miss Weyand: (Continuing) —with the girls in their sections?

Mr. Hogsett: Objected to as calling for an opinion and conclusion of the witness.

Trial Examiner Batten: You may answer.

A. Yes.

Miss Weyand: How do you know that?

A. That we were supposed to go with them? We supposed we were.

Q. Did you join the Donnelly Garment Workers' Union?

Mr. Hogsett: Wait a minute. Pardon me. If you have left that subject,—

Miss Weyand: Yes.

Mr. Hogsett: I move to strike out the answer of the [fol. 6104] witness, that the company knew that instructors were [go] to union meetings.

Miss Weyand: I didn't ask whether the company knew that instructors were to go to union meetings.

Mr. Tyler: I move—

Mr. Hogsett: Wait a minute, please, until I get through.

Trial Examiner Batten: Will you read the next to the last question and answer, and the last question and answer—the last two?

(Thereupon the last two questions and answers were read by the reporter, as follows:

“Q. How do you know that?

“A. That we were supposed to go with them? We supposed we were.

“Q. Did you join the Donnelly Garment Workers' Union?”)

Mr. Hogsett: Now, I move to strike out the answer of the witness to the effect that the company intended instructors to attend union meetings, because when the witness is asked how she knew that, she expressly shows that what she says is knowledge is mere supposition.

Trial Examiner Batten: Well, I will not strike it out, Mr. Hogsett, because I think the next question and answer indicate clearly what basis there was for her prior answer.

Mr. Hogsett: And show it to be supposition and not knowledge.

Trial Examiner Batten: Well, I don't know as I am indicating what I think it is. I think it is obvious to anybody who reads the two questions and answers what foundation there is for the prior answer. The record may stand as it is.

Miss Weyand: When Mrs. Wherry told you there was going to be a meeting, did you think she meant for you to go to the meeting?

Mr. Reed: Now,—

A. Yes. She told me we were to go with the girls.

By Miss Weyand:

Q. Do you remember how the second, third, fourth, and following meetings of the Donnelly Garment Workers' Union, held shortly after the organization meeting, were called? A. You mean, how we were notified?

Q. Yes.

A. I couldn't be sure. Mrs. Wherry told me part of the time, and part of the time I got it by phone from the operators.

Q. How were the girls in your section notified?

A. I took one row and told them, and my floor girl told the other row.

Q. Were some of those meetings during working hours?

A. All of the first ones were.

Q. Were the girls paid for the time they spent at those meetings? A. They were.

Q. Did the girls wear their uniforms to those meetings?

A. Yes.

[fol. 6106] Q. Did you go with them to those meetings?

A. Yes.

Q. Did you regard yourself as a supervisory employee?

A. Yes.

Q. Why? A. Well, because I was in charge of them.

Q. Do you know whether the girls in your section regarded you as their supervisor?

A. I think they did.

Q. What were your duties as an instructor?

A. To plan the work and to give out work and to instruct them.

Trial Examiner Batten: Will you keep your voice up, please, as much as you can?

Mr. Ingraham: Could I have the answer read, please?

Trial Examiner Batten: Yes.

(Thereupon the last answer was read by the reporter.)

By Miss Weyand:

Q. Did you go over the pay roll cards weekly with the office? A. Yes.

Q. And you continued doing that the entire time you were an instructor prior to July 15, 1939; is that correct?

A. Yes.

Q. Was the thread girl in charge during periods when you were absent for an hour or two?

[fol. 6107] A. She was.

Mr. Reed: I couldn't hear the question.

Trial Examiner Batten: Read the question and answer, please.

(Thereupon the last question and answer were read by the reporter.)

By Miss Weyand:

Q. Did you consult with your thread girl with respect to assignment of work? A. Yes.

Q. Did the duties of the instructor change at any time prior to July 15, 1939? A. No.

Q. Did the duties of the thread girl change at any time prior to July 15, 1939? A. No.

Q. What was the position of Lena Tyhurst in 1937?

A. I don't know exactly. She was to see that the work went out all right. I don't know just what her—

Mr. Reed: We can't possibly hear.

Trial Examiner Batten: Will you read the answer, please?

(Thereupon the last answer was read by the reporter.)

Trial Examiner Batten: You hadn't finished?

A. (Continuing) Well, I don't know what she was supposed to be.

Miss Weyand: Was she over the instructors?

[fol. 6108] Mr. Lane: That is objected to for the reason that the witness has said she doesn't know what Lena Tyhurst did.

Trial Examiner Batten: You may answer.

A. Mrs. Wherry was over the instructors in 1937.

By Miss Weyand:

Q. You didn't regard Lena Tyhurst as also above the instructors?

A. I think she was above the instructors, but I don't think she was in charge of them.

Q. Did she have a supervisory position?

A. I think so.

Q. You don't think so? A. I do think so.

Q. Do you know what Mrs. Gray's position was in 1935?

A. I think she was in charge of the store.

Q. Do you know what Marvin Price's position was in 1937? A. No.

Q. Do you know what Stella Willis's position from 1935 to 1939 was? A. Instructor.

Mr. Reed: I can't hear.

Trial Examiner Batten: Instructor.

By Miss Weyand:

Q. Do you know in what section she was instructor?

A. Button and buttonhole.

Q. Did you know Sylvia Hull? A. Yes.

[fol. 6109] Q. Where did she work? A. Where?

Q. Yes. A. When?

Q. In April of 1937. A. In section 412.

Q. What floor was that on?

A. Eighth floor.

Q. Where was that section located with respect to your section?

A. Well, it was in the southwest corner of that floor.

Q. Where was your section located?

A. In the center, on the east.

Q. Did your sections touch at the corners?

A. No. There were bins, and the inspectors were in between.

Q. What section was to the south of your section?

A. Section 411.

Q. And that was the southernmost wall of that floor?

A. On the southeast.

Q. And what section was at the north of your section?

A. 415.

Q. And those were the only sections along the west wall of the building; is that correct? A. The east wall.

Q. Along the east wall of the building; is that correct?

A. Yes.

[fol. 6110] Q. Do you remember the last day that Sylvia Hull worked for the company? A. Yes.

Q. What happened that day?

Mr. Hogsett: Objected to as not rebuttal.

Trial Examiner Batten: You may answer.

A: Well, I just know there was an awful commotion. The girls had read in the paper where she was a representative for the union, and the girls came from all floors—went over there. I didn't go over, so I don't know what happened.

By Mr. Weyand:

Q. How long did it go on?

A. I don't know exactly.

Q. Can you approximate it?

A. Well, it must have been an hour or more.

Q. Did some of the girls from your section go over to Sylvia Hull's machine?

A. They went over—I don't know whether they went to the machine or not. They went over on that side.

Q. Did you see any supervisory employees from any other floor up there?

A. Just one, that I can recall.

Q. Who was that? A. Mrs. Bogart.

Q. What floor was she on? A. Five.

[fol. 6111] Mr. Lane: That is objected to, and I move to strike the answer for the reason that it is a mere conclusion of the witness.

Trial Examiner Batten: It may stand.

Miss Weyand: Did Sylvia Hall ask for Mrs. Wherry?

A. Mrs. Wherry told me she did.

Mr. Reed: Now, I move to strike that answer out as merely hearsay—

Trial Examiner Batten: It may stand.

Mr. Reed (Continuing): —and not a proper answer to the question.

Trial Examiner Batten: It may stand.

By Miss Weyand:

Q. Was Mrs. Wherry on the eighth floor at any time that morning?

A. She was, early that morning.

Q. Was she there when the Sylvia Hull commotion was going on? A. I didn't see her.

Q. Did Mrs. Wherry tell you anything about the Sylvia Hull commotion?

Mr. Lane: Objected to as hearsay.

Mr. Reed: And not rebuttal.

Trial Examiner Batten: You may answer.

A. Mrs. Wherry told me Sylvia sent for her but that she didn't go.

By Miss Weyand:

Q. Do you remember a meeting of the employees at which Mrs. Reed spoke in March of 1937?

[fol. 6112] A. Yes.

Q. How did you learn that meeting was going to be held?

A. Well, either by phone or Mrs. Wherry told me, I don't know which.

Q. What time of day was that meeting held?

A. It was during working hours, but I don't know the time exactly. It was in the afternoon.

Q. Did you attend the meeting? A. Yes.

Q. Did the girls in your section wear their uniforms to the meeting? A. Yes.

Q. Were they paid for the time they spent at the meeting? A. Yes.

Q. Did you see the entries on their cards in that respect? A. Yes.

Q. What did Mrs. Reed say at that meeting, that you can recall?

A. All that I can recall is what she said about she wasn't going to have any Dubinsky or any other "sky" tell her how to run her business, that she would stay by us girls if we would stay by her.

Q. I hand you I. L. G. W. U.'s exhibit No. 10, which appears in the Circuit Court of Appeals record at page 5961 and also 5375, and ask you whether that petition was [fol. 6113] passed through your section?

A. It was.

Q. Did you sign it at the time it was passed through your section? A. No.

Q. Did you know at the time it was passed through your section that it was being passed?

A. I seen it being passed.

Q. Were you a member of the Loyalty League?

A. Yes.

Q. Who organized the Loyalty League?

A. Mrs. Gray.

Q. Were you present at the meeting at which the Loyalty League was organized? A. Yes, I was.

Q. Where was that meeting held?

A. I'm not sure whether— It was the second floor, I think. I'm not positive. It was on one of the vacant floors.

Q. It was in the building where the company had its plant? A. Yes.

Q. Who presided at that meeting?

A. Mrs. Gray.

Q. Did the Loyalty League continue to exist after the Donnelly Garment Workers' Union was formed?

A. I think it did. We didn't hear so much of it then.

[fol. 6114] Q. Did you attend meetings of the Loyalty League after it was organized? A. Yes.

Q. Where were those meetings held?

A. In the building.

Q. At what time of day were they held?

A. I don't remember.

Q. Were they during working hours or after working hours?

A. I know the first one was during working hours. I don't remember about the—

Q. Were the girls paid for the time they spent at the first meeting? A. Yes.

Q. Do you know whether after the International Ladies' Garment Workers' Union began its efforts to get girls at Donnelly's to join the International the company had any policy with respect to hiring union members?

Mr. Tyler: We object to that. It is far beyond anything that could possibly belong in rebuttal, and, moreover, it calls for a conclusion of the witness about what the company intended. Our objection is that this is far beyond the limits of rebuttal and it belongs in the Board's case in chief, if it has a place here at all. The question calls for a conclusion of the witness.

Mr. Reed: And mere speculation.

[fol. 6115] Miss Weyand: I am offering it in rebuttal of statements of Mrs. Reed, at pages 3314 and 3315 of the record in the present hearing, where she stated there was no such policy and that the company had always employed many union members.

Mr. Reed: I want to call again the attention of the Examiner to this: As far as Mrs. Reed's testimony is concerned, it wasn't given before, for reasons we all understand, and when it was admitted here it was admitted as a part of the continuance of that case that was then tried, and it should have been rebutted at that time.

Miss Weyand: It couldn't have been rebutted at that time, because she wasn't present at that time.

Mr. Reed: To be treated now as though it was given at that time, as a part of the hearing on the main case, when all of the matters she has referred to of any importance were brought out by other witnesses at that time, and the prosecution had full opportunity at that time to reply to them. If there was any discrimination, it was by the company and not by Mrs. Reed.

Trial Examiner Batten: Certainly it isn't rebuttal unless it comes under Mrs. Reed's testimony, Miss Weyand. Does it?

Miss Weyand: I am claiming it comes under Mrs. Reed's testimony—not rebuttal as to anything else.

Mr. Tyler: I suggest, the mere fact that Mrs. Reed may have mentioned something about a matter that was fully [fol. 6116] gone into in the prosecution's case in the first hearing or that any other witness has mentioned such a matter does not make that a subject of rebuttal, because, otherwise, everything in connection with the case would become rebuttal. The fact that Mrs. Reed added something to what was already testified to in the original hearing does not make that a subject of rebuttal.

Trial Examiner Batten: Except that Mrs. Reed is the managing head of this company, and if it has any place here at all, it would be following her testimony.

Mr. Tyler: I submit, the evidence is what determines whether it is rebuttal or not, not the position of the person who refers to it. And the evidence has been fully gone through.

Trial Examiner Batten: Of course, that is true, under ordinary circumstances, Mr. Tyler. If I hadn't made the error which apparently I made in the first hearing and had received all of the testimony, no one can tell what might have been the situation. And had Mrs. Reed testified in the first hearing, perhaps no one can tell what the result might have been.

She may answer the question.

Mr. Reed: I want to call attention to the fact that the Board stated in its decision, and ordered and found that the company had an antiunion attitude prior to the time the Wagner Act came into effect in July 1935, and they [fol. 6117] continued to find that down to the date of the hearing. Now, that was then an issue. It was gone into and evidence was introduced on it.

Now, you permitted Mrs. Reed to testify in this case, at this hearing, because she couldn't be at the other hearing. If that reopens the whole case, then this is not a matter of rebuttal at all but of retrial.

Mr. Tyler: And in that case—

Trial Examiner Batten: Of course, Senator, in your recent statement there, I think you have something. In other words, if Mrs. Reed's testimony, because it was given in this hearing, opens up the whole subject matter, then, of course, there may be no limit to which we might go.

What do you think of that, Miss Weyand?

I am inclined to believe that that is more or less correct. In other words, was there anything Mrs. Reed didn't testify about, and if so, then any matter now is material?

Miss Weyand: Well, I think it would be within the discretion of the Trial Examiner to allow any matter to explain or contradict anything Mrs. Reed said which is not a repetition of evidence given in the Board's case in chief.

However, it is not my intention to bolster up matters which we knew were going to be contested at the time the Board's case in chief was put on. It is only my intention to rebut those matters which for the first time came into the defendant's case as direct statements of evidence of Mrs. Reed's understanding and direction.

[fol. 6118]. Now, we have on the witness stand a supervisory employee who was with the company from 1922 down until a very recent date, who was in close contact with other supervisory employees, and with Mrs. Wherry, and I think it is entirely proper to ask her whether she knows if the company had a policy of getting rid of the I. L. G. W. U. after the I. L. G. W. U. started organizing the plant.

Mr. Lane: Mr. Examiner,—

Mr. Hogsett: That is the very essence of their case in chief.

Trial Examiner Batten: Miss Weyand, it seems to me, if I would accept your statement, then we have opened up the entire case.

Miss Weyand: No. I am merely rebutting direct statements Mrs. Reed made and limiting myself to rebuttal, in the strictest sense, of matters which came into the case for the first time because of Mrs. Reed's testimony here.

I think it is entirely proper, when she said they had a policy of not discriminating, to have a supervisory employee who was close to the management state they did have such a policy.

There was never any evidence in the case before as to what Mrs. Reed thought the policy of the company was. We didn't have an officer of the company state before what the policy of the company was, and it is certainly proper to [fol. 6119] have a supervisory employee so state.

Mr. Tyler: Now, if the Examiner please, the Board argues that the company had an antiunion attitude since a way back in 1930. They had an opportunity to present their case on that. The mere fact that some additional evidence which the court directed be put in the evidence was put in by an officer of the company does not change the fact that the Board is now trying to try that issue all over

again with witnesses and evidence which were properly a part of its case when it first put it in. The mere fact that some additional defendant witness denies it does not entitle the Board to put in its case all over again, with new witnesses, on the same subject which it supported before. If that were true—if the Board can go over its case again because of Mrs. Reed's testimony, then the respondent and intervenor should be entitled to make an entirely new defense, and then the Board perhaps should have another rebuttal, but that, obviously, is not true.

Mr. Hogsett: May I put one further fact in your mind as supporting what Senator Reed has said and what Mr. Tyler has just said?

This question of the antiunion activity of the company prior to the Wagner Act and since was a part of the Board's contention and, therefore, of its case in chief, and in the brief in the Circuit Court of Appeals they had black-faced headings to separate the evidence—its discussion of the [fol. 6120] evidence of the alleged antiunion activity before the Act and of the alleged antiunion activity since the Act.

Now, that is just a circumstance that tends to convince the mind that that was the essence of their claim in chief.

Now, what Senator Reed has just said is manifestly true, that if you permit this, then the case is just wide open, clear up to an open throttle.

Trial Examiner Batten: Well, Mr. Langsdale, you haven't had anything to say yet.

Mr. Ingraham. Could I just add this:—I don't want to have two speak from a side, but I do want to say this:

In the testimony offered by respondent from the N. R. A. evidence respondent offered, among other questions and answers, this:

"Now, Mrs. Reed, have you or any official of the Donnelly Garment Company ever at any time discriminated against an employee on account of union affiliations or sympathies?

"A. I have not."

Then, in addition to that—

Mr. Langsdale: When was that?

Mr. Ingraham: That was from the N. R. A. evidence.

Mr. Langsdale: Was that offered in the 1939 hearing?

Mr. Ingraham: Yes.

Then, in addition to that, Elizabeth Reeves testified in the previous hearing at great length on the policy of the [fol. 6121] company, that it never engaged in any discrimination on account of union affiliations. That was all gone into, and this question adds nothing new. The Board offered its evidence that the company did do that, did discriminate, and we met it in that way.

Mr. Reed: I don't want to—

Trial Examiner Batten: Now, Senator, let's not have everybody on each side.

Mr. Reed: I beg your pardon.

Trial Examiner Batten: I mean, after all, Senator, Mr. Langsdale hasn't said anything yet and I want to hear what he has to say.

Mr. Langsdale: If the Examiner please, it seems to me that Mrs. Reed's testimony falls in two classes. In one class she answered the Board's case, and I doubt if—I won't say "I doubt," but at least there is some question about whether or not it is proper to rebut what she said in answer.

There is another class of testimony given by Mrs. Reed which was new and was not in answer to any part of the Board's case, and of course we are not foreclosed on that. We must have a right to reply to that.

Now, which classification this falls in—

Trial Examiner Batten: Of course, Mr. Langsdale, it seems to me that this particular matter falls in your first classification.

[fol. 6122] Mr. Langsdale: I—

Trial Examiner Batten: I'll tell you why. As Senator Reed says, the essence of the Board's case was unfair labor practice, interference, coercion, and so forth, by the com-

pany. Now, it may be true that Mrs. Reed didn't testify in the first hearing, but there were plenty of others who testified, and the purpose of the testimony was to show interference and coercion by the company.

Mr. Langsdale: I am inclined to believe that is correct.

Miss Weyand: Mrs. Reed, for the first time, brought up the contention that the company had in its employ for a period of time members of unions and had never done anything about it. That testimony is at pages 3314 and 3315 of the record. That was in the way of affirmative matter which had not been raised in the case before, and I think we have a right to rebut it.

Trial Examiner Batten: Miss Weyand, I am going to rule that you do not. There has to be some limit to this somewhere, or, the first thing we know, we will be retrying this whole case.

Mr. Langsdale: It seems to me Mrs. Reeves gave that same testimony in 1939 when she testified about the carpenters' union.

Trial Examiner Batten: Yes, I think I recall about carpenters, plumbers, and repairmen.

We will recess for 10 minutes, until 5 minutes after 3.

(Thereupon a 10-minute recess was taken.)

[fol. 6123] Trial Examiner Batten: We will proceed.

Miss Weyand: That is all the questions I have of this witness.

Trial Examiner Batten: Mr. Langsdale?

Mr. Langsdale: Just a moment until I see if I have any.

Recross Examination.

By Mr. Langsdale:

Q. Who was Mrs. Bogart?

A. Who?

Q. Mrs. Bogart, B-o-g-a-r-t (spelling).

A. Oh, Mrs. Bogart was an instructor on the fifth floor in the dividing department.

Q. Was she an instructor on the fifth floor in the dividing department in March and April 1937?

A. I am sure she was.

Mr. Langsdale: That's all.

Trial Examiner Batten: Mr. Hogsett?

Mr. Hogsett: Mr. Ingraham.

Recross Examination.

By Mr. Ingraham:

Q. Mrs. Skeens, you testified that you worked for the company up until September 19, 1941, is that right?

A. September, 1941.

[fol. 6124] Q. Now, just prior to that date had you taken a vacation?

A. Yes. I came back from my vacation the 19th of August and if I remember right I left the 19th of September.

Mr. Langsdale: I didn't hear that.

Trial Examiner Batten: Will you read the answer?

(Thereupon the answer was read by the reporter.)

Mr. Ingraham: Now, after you returned from your vacation what work did you do at the plant?

A. Instructing.

Mr. Langsdale: What year are you talking about?

Mr. Ingraham: What year was that?

A. '41.

Mr. Ingraham: 1941.

By Mr. Ingraham:

Q. You were an instructor at that time?

A. Yes, sir.

Q. Had you been transferred at any time before that from instructing to do any other work?

A. You mean in the length of time I was there?

Q. No, just in, say, 1941.

A. No.

Trial Examiner Batten: What was your answer?

A. No.

By Mr. Ingraham:

Q. Now, how many weeks were you allowed off for a vacation?

A. Last year I had three because I was a Pioneer.

[fol. 6125] Q. And you received your pay for the 3 weeks?

A. For the three weeks.

Q. Isn't it a fact that you told the girls that you didn't intend to work long after you came back from your vacation?

A. I didn't figure I would stay long, I had intentions of leaving.

Mr. Reed: I couldn't hear.

A. I didn't intend to stay long, I didn't know just how long, I didn't have any definite time to stay.

By Mr. Ingraham:

Q. Were you dissatisfied with your work?

A. Not with my work exactly.

Q. What were you dissatisfied with?

A. With Cecil.

Q. What had Cecil done?

A. Well, she didn't just like me very well, and I wasn't very happy working under her.

Q. And you didn't care to work under her?

A. That was it. The company was swell.

Q. Were you mad at Mrs. Reed?

A. No.

Q. Isn't it a fact that you have told girls that you tried to see Mrs. Reed to have a talk with her and she wouldn't see you, and you didn't like it?

A. I did not, because I never tried to see Mrs. Reed.

Q. Now, you stated that you knew Sally Ormsby went [fol. 6126] to Mr. Tyler's office. Did Sallie Ormsby tell you that?

A. Yes, Sir.

Q. How many times did she go to Mr. Tyler's office?

A. I couldn't say for sure.

Q. More than once?

A. Well, she was out at meetings more than once, but I couldn't say that she was at his office. I know she came

back and had me make slips out for her, but I couldn't say she was in his office every time, I don't know.

Q. Did anybody besides Sallie Ormsby instruct you to make out slips for her?

A. Later I have made them out for different girls in 412; I think I made one out for Elsie Wright when she went down to some kind of a meeting, I don't remember when it was.

Q. When was that?

A. Well, I couldn't be sure of that, whether it was in 1940 or 1941.

Trial Examiner Batten: Well, was this time you made them out for Sallie Ormsby —

A. (Interrupting) Up to 1939?

Trial Examiner Batten: Was that before or after July 1939?

A. Yes, it was in 1937.

Trial Examiner Batten: This other instance you are telling about?

[fol. 6127] A. That was later than 1939. I forgot.

Trial Examiner Batten: You say it was when?

A. I think it was later than 1939.

By Mr. Ingraham:

Q. Who told you to make out slips for these girls?

A. Well, Sallie, when she came back from her first meeting she told me — I don't know who told her — but she told me I was supposed to make out slips for the time she lost.

Q. And she was the only one that ever told you that?

A. As well as I remember now.

Q. Did you know whether or not the company ever paid for any time that you put on these slips?

A. Well, I am sure they did.

Trial Examiner Batten: Well, the question is —

A. (Interrupting) It is always posted on the card.

Trial Examiner Batten: Well, the question is, do you know whether they did or not?

A. They did.

By Mr. Ingraham:

Q. How did you know that?

A. It was posted on their cards, the pay roll cards that we went over every week.

Q. Do you know whether or not the company paid the amount stated on the pay roll card? Did you ever see the pay check of the girls?

A. No, I didn't see their checks, I just saw the cards [fol. 6128] when I went over them. I did see their checks when they were handed out but I never noticed that.

Q. You never noticed whether the company ever paid this time or not?

A. No, I didn't see it on the checks.

Q. Now, did you attend the Donnelly Garment Workers' Union meetings?

A. I did all they had during working hours, and a few they had after working hours, not all of them, not very many of them.

Q. Do you know whether or not the Donnelly Garment Workers' Union paid out of their own treasury girls who spent time on union business?

A. I don't know about that.

Q. Did you ever hear that talked about?

A. No, Sir, not that I recall.

Q. Now, you stated that you recall the four meetings that were held by the Donnelly Garment Workers' Union after it was organized. Can you tell me about how soon after the meeting at which the Donnelly Garment Workers' Union was organized was there the next meeting?

A. No, I couldn't.

Q. Was it within a month?

A. Oh, yes, but I can't tell you whether it was the same week or not.

[fol. 6129] Q. Well, what took place at that meeting?

A. At the one where they were organized, you mean?

Q. No, the next meeting.

A. Well, I don't know.

Q. Do you remember anything that took place?

A. No, sir.

Trial Examiner Batten: Will you speak a little louder, please?

A. I said no, sir.

By Mr. Ingraham:

Q. Now, the next union meeting that was held what took place at that meeting?

A. Well, I don't remember just what took place at the meetings. I always went but I can't remember just what took place.

Q. Well now, can you tell me anything at all that took place at any meeting that you attended, any meeting of the Donnelly Garment Workers' Union?

A. Well, at the time it was organized I remember them passing around the cards and all of us signing cards where we joined up.

Q. Now, after that organizational meeting can you tell me anything that ever took place at any Donnelly Garment Workers' Union meeting?

A. No, I don't think so.

Q. Now, how many meetings did you attend in 1938 of [for 6130] the Donnelly Garment Workers' Union?

A. I couldn't say, I don't know.

Q. Did you attend any?

A. Well, I don't know. I surely did but I wouldn't say for sure.

Q. Up to July 1939 did you attend any meetings of the Donnelly Garment Workers' Union?

A. A few. I didn't attend very many if it was after working hours, and I was always in a hurry to go home. A few of them I attended.

Q. Now, these meetings that were held in 1937, which you have testified about, do you recall going back to work after any of those meetings?

A. Some of them I did.

Q. Well now, which ones?

A. Now, I don't know just which ones.

Mr. Reed: I can't hear.

Trial Examiner Batten: Will you speak louder?

A. I don't know just which ones. There was some that we went back to work afterwards, and some it was quitting

time when they were over, and I don't remember just which was which.

Q. Well, when did you make out the cards?

A. I didn't make out any cards. I said it was on the pay roll card that was made out when I went up there, it [fol. 612] was already added on, if that is what you mean.

Q. Yes. What was added on?

A. How ever much time they were at the meeting; if it was an hour they were paid for an hour, and if it was an hour and a half they were paid for an hour and a half; of course, that was added on to the card when I went up and looked over the cards; I didn't make out any time for that.

Q. You never made out any time for meetings?

A. Not for those meetings. Everybody attended and I didn't have to make out slips for them.

Mr. Reed: I can't hear, the witness drops her voice and I can't hear.

Trial Examiner Batten: Will you read the answer, please?

(Thereupon the answer was read by the reporter.)

By Mr. Ingraham:

Q. Did you make out slips for any kind of allowances?

A. I did when they have repair, you know, when it wasn't their fault, the machine time, anything like that, I made out their time, I made out their slips and turned them in, just the time it took, I didn't put any price on it.

Q. But Mrs. Wherry never told you at any time to make out time slips for girls attending union meetings, did she?

A. No.

Q. Did you ever hear that Mrs. Wherry told any other instructor to do anything like that?

[fol. 6132] A. No, I didn't.

Q. You heard Etta Dorsey's testimony this morning, didn't you?

A. Well, I heard her testify but I didn't hear her say that.

Q. You didn't hear her say Mrs. Wherry told her to make out time slips?

A. Well, I guess I wasn't listening, I didn't hear that.

Q. Well, Mrs. Wherry never told you anything like that, or ever told any instructor anything like that, to your knowledge?

A. To my knowledge.

Trial Examiner Batten: What was your answer?

A. To my knowledge I didn't.

By Mr. Ingraham:

Q. You mean she didn't?

A. I don't know that she ever told anybody, not to my knowledge.

Q. Did you ever order the operators in your section to attend any meetings?

A. I didn't order them to, I just shut off the power and told them we were going to have a meeting.

Q. Well, did you give them instructions they had to go to the meeting?

A. Just like I told you, I just shut off the power and I went along and told them, "We are going to have a meeting," and that was all, and they just went; I didn't tell them they had to go.

Q. Did you ever hear any other instructor tell employees they had to go to the meetings? A. No.

Q. Now, Mrs. Skeens, isn't it a fact that you are sent instructions from the office as to the work to give out, written instructions? A. As to the work to give out?

Q. Yes.

A. No. We have written instructions showing the girls what their part is, but not the work to give out. I don't understand you.

Q. Didn't you daily get instructions from the office as to the bundles and to what was to be done about them?

A. Well, we had certain dresses to get out, but I didn't—

Q. (Interrupting) Well, didn't you get written instructions about those dresses, how much to do of this and how much of that?

A. I don't remember getting written instructions.

Trial Examiner Batten: Well, Mrs. Skeens, when those bundles would come in, when this material would come into your section didn't you get some sort of instructions that come along with the bundles, a ticket?

A. No, they just put the work in the bin, and we had in-
[fol. 6134] structions what to do, you know what I mean,
how the dresses were made and how we gave out the work.

Trial Examiner Batten: I think that is what Mr. In-
graham means. You got some sort of instructions along
with your work.

By Mr. Ingraham:

Q. Wasn't work planned in the office upstairs?

A. Well, I think it was planned there, yes, what each
section would do.

Q. Do you want to tell the Examiner that you had the
authority to give out the work to certain people and re-
fused to give work to other people?

A. Well, I didn't do anything like that.

Q. Well, you never thought that you had any right to
do anything like that?

A. Well, no, I wouldn't think so.

[fol. 6135] By Mr. Ingraham:

Q. Wasn't it a fact that operators at times, if you were
busy somewhere else, would get up and get their own
bundles?

A. Years ago, they did, but not in the last few years.

Q. There wasn't any instructions against allowing them
to do that, was there?

A. Well, they weren't supposed to do it and they
didn't do it. I don't know as there were any instructions
against it, but they didn't do it.

Q. Were there ever complaints made that sometimes
the instructor would be busy and the girl didn't get a new
[fol. 6136] bundle, and for that reason she would get up
and get one herself? A. I don't know that.

Q. Did you ever change an operator without consult-
ing Mr. Baty? A. What do you mean, change them.

Q. Well, prior—now, I am speaking of prior to July,
1939—did you transfer operators out of your section with-
out consulting Mr. Baty?

A. Why, I never did transfer any out unless somebody
came and told me to transfer them out.

Q. Yes, and wasn't it Mr. Baty that did that?

A. No, it wasn't Mr. Baty.

Q. Wouldn't it come from Mr. Baty, the instructions?

A. Well, I imagine it would come from him but that wouldn't be the way I would receive it.

Q. You never hired or discharged an operator, did you?

A. I did not.

[fol. 6137] Q. I believe you stated that you joined the Loyalty League when it was formed. Do you recall when it was formed? A. No, I don't.

Q. Do you remember what year it was formed?

A. No, I don't; I can't remember dates.

Q. Did you go to meetings of the Loyalty League?

A. I did the first ones.

Q. How many did they have?

A. I couldn't say.

Q. How many Loyalty League meetings did you attend in 1935, if you recall?

A. I wouldn't know. I suppose all they had, I am sure I did, but I don't know how many they had.

Q. Do you know whether they had any meetings in 1936? A. I couldn't say.

Q. Do you know whether they had any meetings in 1937?

A. Yes, yes, I am sure they had them, I think, in 1937.

Q. When?

A. I don't know, but it seemed to me the union meetings and the Loyalty League meetings kind of came in together, I think; that is why I say there were many meetings for a while.

[fol. 6138] Q. What do you mean by "came in together"?

A. Well, for a while it seemed like we had a meeting every two or three days, and it seems to me some were Loyalty League meetings and some were union meetings.

Q. You mean to say they were holding them on different days? You mean you would have a union meeting one day—

A. (Interrupting) As far as I remember.

Q. (Continuing)—and a couple of days later you would have a Loyalty League meeting?

A. I believe it was like that. I am not sure.

Q. Would you say you had a union meeting twice a week?

A. Well, I don't know. There was some weeks I think we had two meetings, but I wouldn't say which they were, whether they were both union, or one was a Loyalty League meeting or not, I can't remember that.

Q. You can't remember anything that took place at any union meeting outside of the organizational meeting?

A. No, sir.

Q. Do you recall anything that took place at a Loyalty League meeting? A. No.

Q. Did you state that you attended the meeting at which Mrs. Reed spoke? A. Yes.

Q. Do you recall how that meeting happened to be held? [fol. 6139] A. No, I don't know how. We just got word there was going to be a meeting and went down.

Q. Were there strikes going on in other garment plants in Kansas City?

A. I believe they were. That is the time she spoke, when they were having trouble there, I don't know, somewhere at 26th and Grand.

Q. Were the employees—

Mr. Langsdale: Just a moment. I am having a lot of difficulty in hearing. Will you speak a little louder, or try to, Mrs. Skeens? A. I will try to.

By Mr. Ingraham:

Q. Were the employees generally frightened about what was going on at those other strikes?

A. Why, I think some of them were, most of them were.

Q. Were you? A. Yes.

Q. Were the employees talking about means to protect themselves against any attacks that would be made by the I. L. G. W. U.? A. Well, I didn't hear that.

Trial Examiner Batten: What is it?

A. I didn't hear them make any.

By Mr. Ingraham:

Q. Were you thinking, yourself, about how you could get in and out of the building, if a strike was called, [fol. 6140] without getting hurt?

A. Well, we had the buses at that time, that took care of us.

Q. Why did you have the buses?

A. Well, in case there was trouble over there, I guess, to protect us.

Q. Well, did you personally have any fear about being able to get in and out of the building without getting hurt?

A. Oh, no, I never thought that.

Q. Was that because your husband was an organizer for the union?

A. Well, my husband was not, no.

Q. Is your husband a union man?

A. He is at the post office, and he is in the union.

Q. Didn't he organize the postmen?

A. Why, he did not.

Q. Did you think that you might be hurt, and that was the reason you rode on the buses?

A. No, they just furnished the buses for us, and everybody rode them.

Q. You could have gone on the street car?

A. Why, I didn't ride the street car, I rode with my husband, but they furnished the buses for us, and I just rode them like everybody else did.

Q. Well, why didn't you come to work with your husband [fol. 6141] band in his car?

A. Well, I understood that we were supposed to ride the buses, I thought that was what Mrs. Reed wanted us to do; all of us came to 31st and Main, and from that point down, and that is what I did. I always tried to do as near as I could what I was supposed to do.

Q. Now, isn't it a fact that the employees were attempting to take some action to protect themselves at that time?

A. Well, I don't know, outside of when they got that injunction to protect us, if that is what you mean.

Q. Now, at this meeting that Mrs. Reed spoke, wasn't it a fact the employees wanted to know what the company was going to do? A. I just don't recall it.

Q. You didn't hear anything like that at that meeting?

A. Well, if it was said, I probably heard it, but I don't recall it now, though.

Q. Do you recall anything that was said at that meeting other than what you say you heard Mrs. Reed say?

A. No, I don't think of anything.

Q. Now, you say you went down with the girls in your section. Whom did you sit with? A. Just which girls?

Q. Yes.

A. I can't remember. I sat with some of the girls from [fol. 6142] our section, but I don't know just which ones.

Q. You said that you told one row of girls at the table that there was a meeting to be held. Can you give the name of any of the girls that you told of the meeting?

A. I just went along and announced it. I didn't tell any special one. Is that what you mean, the girls that sat on the row that I told?

Q. Yes.

A. Well, I took the north row, and Sallie Ormsby was on that row, and Lorene Johnson, Emma Spahr, Pearl Hall, Ethel Maxwell, Martha Kuhn, Lucy Evans, Ruby Welch — there is more than that — there is 20, but I can't remember them all.

Q. Well, what did you say to any one of those girls that you have named, and give the girl's name.

A. And give the girl's name?

Q. Yes.

A. I didn't say anything to any individual; I just shut off the power, walked up this row and stood right there facing, you know, five or six girls, and I said, "There is going to be a meeting, and we are going down," and then I walked up so the next bunch could hear, until I got to the end of the row.

I didn't talk to any individual. I said it so about six of them would hear it, and then I would walk up and [fol. 6143] repeat it.

Q. Now, what time of day was that?

A. Well, it was in the afternoon, but I am not sure of the time.

Q. Could you be mistaken about it being at 2:30?

A. It seemed to me it was around 2:30. I could be mistaken; it might have been a little before, and it could have been a little after.

Q. Were most of those meetings held around 2:30?

A. Well, they were in the afternoon, and I judge they were around that time, between 2 and 3.

Q. You think between 2 and 3?

A. That is to my mind.

Q. Now, when you were through with the meetings, did the girls come back to work?

A. Sometimes they did. There was a meeting or two, I think, that was just at quitting time, and we didn't work.

Q. But all the rest of the meetings, you came back to work from?

A. Some of them we did, yes.

Q. Now, which meetings were those?

A. I don't know just how many. I don't remember just how many there were.

Q. Well, were some of the meetings after working hours?

A. Later; I don't know whether it was in 1937 or not.

[fol. 6144] Q. Is it your recollection now that all the meetings in 1937 occurred before working hours were over?

A. The ones in the spring were, but I couldn't say — they had them later in the fall and I couldn't say about that.

Q. Now, at this meeting when Mrs. Reed spoke, how long did she speak?

A. I don't know.

Q. Well, would you say 15 minutes?

A. Oh, no, it was longer than that, I don't know whether it was exactly an hour or not.

Q. You think it was about an hour?

A. Well, as far as I remember; I don't know.

Q. I will hand you respondent's exhibit No. 12, and ask you to read this exhibit and state whether or not you recall Mrs. Reed making that speech.

A. Yes, I remember this, since I read it.

Mr. Langsdale: Will you answer so I can hear you?

A. Yes, I said I remembered since I read this; I didn't remember it before.

By Mr. Ingraham:

Q. Did you read it all?

A. No, I didn't.

Q. Well, read it all, please.

Mr. Langsdale: Is that respondent's exhibit 12, you are showing her?

Mr. Ingraham: Yes.

[fol. 6145] By Mr. Ingraham:

Q. Do you recall, Mrs. Skeens, Mrs. Reed making that speech?

A. Yes, I remember her making that speech.

Q. Was this what you recall that she said?

A. Well, all outside of that "buttinsky" business.

Q. Well, point out just what you mean.

A. Well, right here (indicating) I understood her to say, "any other 'sky,'" that is the way I understood her to say it, not buttinsky.

Q. I see. Now, outside of that —

A. (Interrupting) And I thought it was at this meeting that she said — it doesn't state here — that she would stand by us if we would stand by her; she said that at one of the meetings.

Mr. Langsdale: You know, this is not a private conversation between you and Mr. Ingraham; we all want to hear it.

By Mr. Ingraham:

Q. Now, where the word is "buttinsky" you understood her to say "sky."

A. Yes, sir.

Q. Now, do you recall Mrs. Reed saying: "If you want to belong, that is your own business and it is up to you to decide?"

[fol. 6146] A. Well, I don't recall that, but if it is in there she must have said it.

Mr. Langsdale: Now, that is the vice of this transcript.

Trial Examiner Batten: Just a moment. Will you read the question?

Mr. Langsdale: She says she does not recall it, but if it is in there. I am objecting to him showing her what he claims is a transcript of what Mrs. Reed said, and handing

his questions in a way that would lead the witness to think it is a genuine transcript.

Trial Examiner Batten: Of course, Mr. Langsdale, the question to the witness was, does she recall the part that Mr. Ingraham read that Mrs. Reed said, and she said she didn't recall it.

Mr. Langsdale: Will you read the answer?

Trial Examiner Batten: Yes, I recall the last phrase she put in "but if it is in there."

Mr. Langsdale: Yes.

Trial Examiner Batten: But as far as the witness is concerned, she said she didn't recall it.

By Mr. Ingraham:

Q. You wouldn't say Mrs. Reed didn't say that?

A. I wouldn't say she didn't, I don't remember everything she said.

Q. Sure, I don't expect you to, Mrs. Skeens. Did you [fol. 6147] tell any operator to join or not join the Donnelly Garment Workers' Union?

A. I did not.

Q. Did you tell any operator that he or she should remain a member of the Donnelly Garment Workers' Union?

A. No, sir.

By Mr. Ingraham:

Q. Did you ever say anything to any operator regarding whether they should join or not join the Donnelly Garment Workers' Union?

A. No, sir, I don't think I ever did.

Q. Did you ever report to Mr. Baty any grievance that an operator might have, an operator in your section?

A. Only maybe some price was low on something.

Mr. Langsdale: Will you read that answer?

Trial Examiner Batten: I don't think you finished yet, did you?

A. No. I said that is the only thing, sometimes the price was low on something and I would tell Mr. Baty that [fol. 6148] we needed more money on them.

By Mr. Ingraham:

Q. And it was up to Mr. Baty to pass on grievances?

A. Well, I thought it was.

Q. Well, do you recall signing an affidavit in May 1939?

A. What about?

Q. Well, an affidavit that the employees had formed the Donnelly Garment Workers' Union by their own free will?

A. I think I did.

Trial Examiner Batten: Now, before you show it to her, is this for the same purpose as shown to the witness this morning by Mr. Hogsett?

Mr. Ingraham: That is it.

Trial Examiner Batten: And that is the only purpose?

Mr. Ingraham: Yes.

Mr. Langsdale: I beg pardon, what is the purpose?, I have forgotten.

Mr. Ingraham: Well, the purpose is to test their recollection.

Trial Examiner Batten: Well, it wasn't a matter of recollection, it was a matter of whether or not there was any conflict between the testimony given by the witness [fol. 6149] and the statement made in this affidavit.

Mr. Hogsett: That's right.

Trial Examiner Batten: That was the purpose of it, and the only purpose.

Mr. Langsdale: I object to it for the reason there isn't anything in the affidavit that in any way conflicts with the testimony given by this witness, and therefore it is not material for that purpose.

Trial Examiner Batten: Well, of course, as I said this morning, Mr. Langsdale, if, considering the record and the affidavit, it appears there is obviously no conflict, no harm is done.

Now, these aren't being received on any basis except the basis I stated.

Mr. Langsdale: Well, whoever considers the record will have his attention called to it.

Miss Weyand: I would like to object for the same reason I did this morning, and have a continuing objection.

Trial Examiner Batten: You may have a continuing objection, as I stated this morning, and I'll make the same ruling I made this morning.

By Mr. Ingraham:

Q. I'll hand you intervenor's exhibit No. 20, and ask you if that is your signature that appears on page 6060 of the Circuit Court record.

A. Yes, that is my signature.

[fol. 6151] Mr. Ingraham: Now, it is stated in this affidavit, "Each signer hereby further states that he or she has read or had read to him or her the contents of this affidavit." Do you recall reading the affidavit, Mrs. Skeens? A. Yes.

Mr. Langsdale: What was the answer?

The Witness: Yes.

Mr. Ingraham: And when you made this affidavit you knew the contents of what was in it?

A. Yes, sir.

Q. And were the facts stated therein true?

Mr. Langsdale: Just a moment. I object to the question unless confined to the facts as applied to this witness, and the plural therein the word "we," of course, is not intended to be answered by this question.

Mr. Tyler: I submit, she can tell as far as she knows. She may know as to other people; it's possible.

Trial Examiner Batten: Of course, as indicated this morning by Mr. Hogsett, it is only for the purpose of its application to this witness?

Mr. Ingraham: That is correct.

Trial Examiner Batten: For the identification of her signature, and whether she at the time she signed it felt it was correct?

Mr. Ingraham: That is correct.

[fol. 6152] Trial Examiner Batten: Without reference to all of the other signatures?

Mr. Ingraham: That is correct.

Mr. Langsdale: Is that worded exactly like the one Mr. Hogsett showed to Mrs. Dorsey?

Mr. Ingraham: I think it is.

Mr. Langsdale: Let me take a look at it.

(Thereupon the affidavit above referred to was handed to Mr. Langsdale by Mr. Ingraham.)

Mr. Ingraham: Will you please read the question?

(Thereupon the last question was read by the reporter, as follows:

"And were the facts stated therein true?")

A. Yes.

Mr. Ingraham: Mrs. Skeens, in September 1941 had you been requested by the company to change your work from instructor to an assistant in the dividing department?

A. Yes: Just before quitting time that Friday evening, about 3:30, they call me up—Miss Frances, and she asked me if I would—told me they wanted me to go down in the dividing department.

By Mr. Ingraham:

Q. Was your pay to remain the same?

[fol. 6153] A. They didn't say.

Q. Were you willing to make that change? A. No.

Q. What did you do?

A. I just went home—I quit.

Cross-Examination.

By Mr. Tyler:

Q. Mrs. Skeens, what does the word "Supervisory" mean to you?

A. Well, I thought we were over this group of girls.

Q. I am asking you what the word means to you. How would you define the word?

Mr. Langsdale: I submit that is an answer, directly.

Trial Examiner Batten: It may stand. She may answer the next question.

By Mr. Tyler:

Q. How would you define the word, Mrs. Skeens?

A. That you are over a group of people.

Q. Would you say that an employee whose duty was to pass work along a line of people and show them how it should be done was a supervisory employee? Is that what "supervisory" means to you? A. I think so.

[fol. 6154] Mr. Ingraham: I want to make an offer of page 6060 of the Circuit Court record, contained in intervenor's exhibit No. 20.

[fol. 6159] By Mr. Tyler:

Q. Now, did your duties differ from the ones described in that last question, Mrs. Skeens?

A. We disciplined, in a way. We had to see that they didn't talk too much or—

Q. What would you do if they talked too much?

A. I would just ask them to be quiet.

Q. Anything more than that?

A. No. If they talked too much, we was told to send them downstairs.

Q. Did you ever send a girl downstairs for talking too much? A. I didn't.

Q. What was the last meeting of the Donnelly Garment [fol. 6160] Workers' Union you attended, Mrs. Skeens?

A. I don't remember..

Q. You wouldn't remember at what hours it was held, then, would you?

A. It was after working hours, but I don't remember just—They were at different shifts. One shift would go about three quarters of an hour—

Q. The working hours varied from time to time, did they not? A. Yes.

Q. Now, you stated that on the girls'—I think you called it time card— A. Pay roll card.

Q. Pay roll card.—there was an entry about paying them for time taken for union matters. What did that entry say?

[fol. 6161] A. Well, I can't be positive. I think it said "meeting," but I'm not sure; I couldn't be positive.

By Mr. Tyler:

Q. Do you know what the word "meeting" meant, if that was the word there?

A. Yes. It would have meant the meeting that we had that week that would come on that card, on that pay roll card.

Q. How do you know that?

A. I didn't say why. I said they would know.

Q. And you are not sure that the word "meeting" was there?

A. I think it was, but I'm not positive it was.

Q. Or that any other word was there?

A. Yes, there was something there that specified what it was, and that's why I don't know whether it was just "meeting" or "union meeting."

Q. There were several things there about deductions or additions on the card, were there not?

[fol. 6162] A. No, I don't think so.

Q. Do you remember anything about insurance or old age security? A. That wasn't on there.

Q. That wouldn't be on the pay roll card? A. No.

Q. When was the first time you ever mentioned to anybody about that being on the card? When was the first time you ever told anybody about seeing that on the card?

A. Miss Weyand, I think.

Q. That was the first person you ever told about that?

A. Yes.

Q. And that was when, that you told Miss Weyand?

A. About a week ago. I don't remember what day it was.

Q. And you saw the card you are talking about more than 5 years ago, didn't you? A. Yes, sir.

Q. And that was the last time you saw it?

A. Yes, sir.

Q. Were there any of those entries in the month of March 1937?

A. Yes, there would be, because that's when—

Q. No, I am not asking you to decide whether you think it is probable. I am asking you whether you remember if there actually were in March, 1937.

[fol. 6163] A. Yes.

Q. You remember it? A. Yes.

Q. But you cannot remember what the words were?

A. No, sir.

Q. Now, when Sallie Ormsby asked you to make out a slip for her about some time spent on some union matter, did she bring any written order to you to do that?

A. No. She just told me, and I don't remember who she told me told her to do it.

Q. Did anybody else tell you to do it besides Sallie Ormsby?

A. I just don't remember. I know it was all right, or I wouldn't have done it, I guess.

Q. You know—or, have you heard that the Donnelly Garment Workers' Union has a policy of paying its members for any time they lose working for the company that they spent on union matters? Have you ever heard of that? A. I don't know.

Mr. Langsdale: Just a moment.

Trial Examiner Batten: Well, she said she doesn't know.

By Mr. Tyler:

Q. Weren't you supposed to keep track of the time that was spent away from the plant by anyone in your section? A. During working hours?

[fol. 6164] Q. Yes.

A. If it was on business reasons. If it was their own time, I didn't.

Q. Didn't you keep track of the time she spent away from the plant on other reasons except business reasons?

A. No. If she would go to town, or something like that, I didn't keep track. It would just show the time out and the time back in again.

Trial Examiner Batten: You say "the time out and the time back in." You mean, they punched their cards?

A. Yes, sir.

By Mr. Tyler:

Q. When Mrs. Wherry told you about announcing that there was to be a meeting, did she give you an order to order the girls to attend that meeting?

A. She just told me they was going to have a meeting after while and was going to organize the union, but for me not to say anything about the meeting until I got the call on the phone.

Q. But she didn't add to that any statement that you were to direct them to be present?

A. No. She said just to tell them we were going to have a meeting.

Q. And you didn't direct them to be present?

A. I didn't. I just shut off the power and told them we were going to have a meeting.

[fol. 6165] Q. And as far as you know, a half a dozen other girls in the same section might have passed the word along?

A. I don't know. I went along one row and told the girls, and my floor-girl told the girls in the other row, and everybody knew it.

Q. So that everybody knew there was going to be a meeting? A. Yes.

Q. Is it true that Mrs. Wherry told you the same thing, in substance, during all of the union meetings in 1937?

A. No. I didn't say that.

Q. I am not saying you said it. I am asking you if that is true. A. No.

Q. Did anybody at any time ever give you instructions to order any girl to attend a union meeting?

A. No.

Q. You remember turning off the power on April 27, when the girls went to the meeting, do you?

A. I always turned off the power when we had a meeting.

Q. Do you remember turning off the power that day?

A. I don't just exactly remember that day, but I know every meeting they had I turned off the power.

Q. And that is the reason you think the meeting was held before working hours were over? A. I know it was.

[fol. 6166] Q. But you also turned off the power on every day after work was over, too, didn't you? A. Yes.

Mr. Tyler: That is all.

Trial Examiner Batten: Miss Weyand?

Redirect Examination

By Miss Weyand:

Q. How often did Mr. Baty come to your section around 1937? A. Not very often.

Q. Was it once a week, or could you approximate it?

Mr. Reed: I object to that as not rebuttal, all of it having been gone into in chief.

Trial Examiner Batten: Objection overruled.

You may answer.

A. Maybe once a week.

By Miss Weyand:

Q. Did the written instructions which you got when you had a new style direct which girl should do which operation? A. No.

Q. Who decided which girl should do which operation?

A. The instructor.

Miss Weyand: That's all I have.

Trial Examiner Batten: Mr. Langsdale?

[fol. 6167] Recross-Examination

By Mr. Langsdale:

Q. Whose duty was it to keep the girls in the section working? A. The instructor's.

Q. Was there any quota assigned to your section at any time when you were instructor?

A. We had quotas during the rush season.

Q. And whose duty was it to see that that quota was gotten out by the sewing girls? A. The instructor's.

Q. How did you perform that duty?

A. Well, we had to plan the work and give it to the girls, the ones we thought could get it out—we just had to plan to get it out in a certain length of time.

Q. Was it your duty to keep them at it? A. Yes, sir.

Q. And if a girl was disobedient at any time, what did you do about it?

A. Well, I don't know as I had any that was disobedient. We could send them down to the employment if they were disobedient, but I don't know as I ever had anybody who was disobedient.

Q. So the type and kind of work each girl got depended upon the instructor; is that true?

[fol. 6168] A. Yes, sir.

Q. Was there any difference in the money that would be made by the girls due to the way the instructor divided the work? A. There could be.

Q. How?

A. You could give one girl all of the small bundles and one all of the large bundles, and the one with the small bundles wouldn't make as much money as the one with the large bundles.

Q. And it was within the power of the instructor to do that, was it? A. Yes, it was.

By Mr. Ingraham:

Q. If an instructor gave a girl the small bundles would the operator have the right to complain to Mr. Baty?

A. Yes, she would.

Q. And as a matter of fact, was there any kind of discrimination like that, to your knowledge? A. No.

[fol. 6169] GENEVA COPENHAVER, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Miss Weyand:

Q. Will you state your name, please?

A. Geneva Copenhaver.

Q. Where do you reside?

A. 10101 East Tenth.

Q. Is that Kansas City, Missouri?

A. Kansas City, Missouri.

Q. When did you begin to work at the Donnelly Garment Company?

A. I first began to work there in 1928.

Q. How long did you continue to work there at that time? A. I worked there until May of 1929.

Q. Did you at a later date return to work for the Donnelly Garment Company?

[fol. 6170] A. Yes. I went back, I believe it was, in the latter part of September, in the year of 1935.

Q. How long did you continue to work after that?

A. I worked until some time in August of 1939.

Q. What was your job at the Donnelly Garment Company between 1935 and 1939?

A. Embroidery machine operator was what I was hired for.

Q. Did you do that most of the time?

A. When we had embroidery work I would do the embroidery work.

Q. What did you do the other time?

A. Run other machines—did work on other machines, in different sections.

Q. What section were you employed in in March and April of 1937? A. 415.

Q. What floor was that on? A. Eighth floor.

Q. Who was the instructor of that section at that time?

A. To the best of my knowledge, Etta Dorsey.

Q. Did you attend the meeting at which the Donnelly Garment Workers' Union was organized? A. Yes.

Q. How did you learn of that meeting?

A. I was told by the instructor in charge.

[fol. 6171] Q. What time of day was that meeting held?

A. In the afternoon.

Q. Did you wear your uniform to that meeting?

A. Yes.

Q. Did the other girls in your section wear their uniforms to that meeting? A. Yes.

Q. Did you time out before you went to that meeting?

A. Not that I remember of, no.

Q. What do you recall that happened at that meeting?

A. Well, I don't know as I can recall anything that was said particularly, because there were so many meetings, it's hard to designate what happened at this one and that one.

Q. I am speaking of the meeting of April 27, at which the Donnelly Garment Workers' Union was organized.

A. Well, I don't remember. It was one meeting—the one where something pertaining to this union—where they passed out these cards. Now, I couldn't say for sure that it was at that meeting that they passed out cards for us to sign for this union.

Q. Do you know whether the meeting at which they passed out cards was held during working hours?

A. I am quite sure it was.

Q. Did you sign a card at that meeting? A. Yes.

[fol. 6172] Q. Why did you sign the card?

A. Well, I felt like I'd better, if I wanted my job. That was the impression I got from it. I needed my job and needed it badly, and I got the impression that if I didn't, I wouldn't have a job very long.

Q. Could you state why you had that impression?

A. I didn't know anybody that didn't sign one, and I didn't know anybody that didn't belong to it after it was formed. I remember of one meeting—I don't know which one—where it was brought up in the meeting—someone asked if new employees coming into the plant would have a chance to join the union, and they said, yes, they would, and it went on in the conversation, if the new employee had any doubt as to whether they wanted to join the union, there would be a doubt in their mind as to whether they wanted to work for the company.

Mr. Hogsett: If the Court please, we object to this line of examination on the ground that it isn't rebuttal of anything. In other words, it is just going into the Board's case in chief again.

Trial Examiner Batten: I think it is, insofar as it attempts to determine what transpired at the meeting.

Mr. Hogsett: Yes, that is the line of inquiry I am now objecting to.

Trial Examiner Batten: But, of course, part of this testimony, as I recall it, was this witness' statement as to [fol. 6173] why she joined.

Mr. Hogsett: Which is not rebuttal either.

Trial Examiner Batten: Well, let's take them one at a time. I agree with you that the other matter, I don't believe is, the matter as to what transpired. But I gathered from the questions that it was an attempt of Miss Weyand's to set the time of the occurrence rather than what transpired.

Mr. Hogsett: Then, if that is so, I move to strike all of the testimony of this witness as to what transpired at the meeting of April 27, 1937, because it isn't proper rebuttal.

Trial Examiner Batten: I think it may stand, because I think that was the purpose of it.

Mr. Hogsett: And I move to strike out what occurred at the latter meeting, for the same reason.

Mr. Langsdale: What latter meeting?

Trial Examiner Batten: Will you read the question, please?

(Thereupon the last question was read by the reporter, as follows:

"Could you state why you had that impression?")

Trial Examiner Batten: Was there an answer?

The Reporter: Yes, there was a long answer.

Mr. Stottle: The answer is what we are objecting to.

Trial Examiner Batten: It may stand.

Mr. Ingraham: May respondent have a continuing objection to this testimony, for reasons we have heretofore given?

Trial Examiner Batten: Yes. Of course, I agree that going into what transpired at the meeting is not proper

rebuttal, but, as I said before, I don't think that is the purpose of it.

Mr. Reed: Well, it would be perhaps useful if we had that long answer read and know what she did testify to and know whether it was in or out. It was an involved answer.

Trial Examiner Batten: You may have it read. You want it read, Senator?

Mr. Reed: Yes, I am asking for that.

(Thereupon the last answer was read by the reporter.)

Mr. Reed: I move to strike out the whole of that answer as not responsive and as not rebuttal.

Trial Examiner Batten: I think I passed on it once before, Senator.

Mr. Reed: I don't know now— I beg your pardon for my stupidity, but I don't know now what Your Honor's ruling was on it.

Trial Examiner Batten: I think, did I not, Mr. Hogsett, in answer to your objection, state that it might stand? I thought I did.

Mr. Reed: I didn't hear you.

Trial Examiner Batten: I'm sorry, Senator.

Mr. Reed: I'm sorry, too.

Miss Weyand: Miss Court Reporter, will you mark this [fol. 6175] Board's exhibit No. 37 for identification?

(Thereupon the portion of newspaper above referred to was marked "Board's exhibit No. 37, witness Copenhaver," for identification.)

By Miss Weyand:

Q. Mrs. Copenhaver, will you please read this newspaper article and tell me if you attended the meeting there described? It begins at the second column. It is entitled "Cheers By Plant Union."

Mr. Ingraham. Can you give us the date of this newspaper article?

Miss Weyand: I am quite certain it was Wednesday, May 12. Doesn't it appear on there?

Mr. Ingraham: May 12, 1937?

Miss Weyand: Yes.

Trial Examiner Batten: Will you check that and be sure?

Miss Weyand: Yes. I will. I am certain it was May 12, 1937.

Mr. Langsdale: Kansas City Times of May 12, 1937.

By Miss Weyand:

Q. Did you attend that meeting?

A. Yes.

Q. Do you remember the picture being taken?

[fol. 6176] A. No, I don't remember the picture being taken, but I remember attending the meeting.

Q. Do you recognize any of the people in that picture? Will you look at it carefully?

A. Well, a lot of their faces I do recognize, but I don't—you know—I don't know their names.

Q. Do you remember what time of day that meeting was held?

A. In the afternoon.

Q. Do you remember how you were notified of that meeting?

A. We were always notified of meetings by our instructor.

Miss Weyand: I offer Board's exhibit No. 37 for identification in evidence.

Mr. Reed: We object—

Trial Examiner Batten: What— For the purpose of indicating it recalled to the witness' mind that she attended the meeting?

Miss Weyand: No. I want to offer it for the purpose of showing that every girl that attended that meeting, as far as I can see, is in uniform. I think that is proper evidence for the Board to consider in connection with the testimony—

Trial Examiner Batten: Of course, you haven't asked the witness about that, have you?

Miss Weyand: She recognizes ~~those~~ as people of the Donnelly Garment Company and she remembers being at the meeting there described.

Trial Examiner Batten: Is this the same picture that [fol. 6177] was offered in the last hearing?

Mr. Ingraham: I don't think it was.

Trial Examiner Batten: I don't mean "the last hearing;" I mean, at the "first hearing."

Mr. Ingraham: I think Mr. Langsdale had this picture.

Mr. Langsdale: We didn't offer it.

Trial Examiner Batten: I have a rather distinct recollection that at the first hearing someone had a picture of people in uniform and, if I am not mistaken, there were at least three efforts to have it identified, and so forth.

Miss Weyand: If you desire to have me bring specific persons who appeared in the picture and tell you that is their picture, I can do it, but that takes a lot of trouble to do that.

Trial Examiner Batten: I am not asking you to do anything. I am making the inquiry—

Miss Weyand: I have no recollection of that's being in the previous record. I have checked it and haven't been able to find it as of this date.

Trial Examiner Batten: I am certain everything said officially there is in the record. It doesn't make any difference. I will receive it, and I am receiving it on the same basis I have received other newspaper articles which have been received thus far—I think, about 38 of them.

Mr. Reed: We object as incompetent and immaterial and [fol. 6178] not proper direct examination, undertaking to introduce into the case as substantive evidence a mere newspaper article, and as not proper rebuttal.

Mr. Langsdale: I understand the article itself is not offered but merely the picture.

Trial Examiner Batten: Well, I have received it.

(Thereupon the portion of newspaper above referred to, previously marked for identification "Board's exhibit No. 37, Witness Copenhaver," was received in evidence.)

By Miss Weyand:

Q. Did you know Sylvia Hull?

A. I didn't know her personally. I only recognized her when I saw her.

Q. Were you working on the same floor with Sylvia Hull the last day Sylvia Hull worked for the company?

A. Yes, I was.

Q. Do you recall what happened that morning?

Mr. Tyler: We object. The Sylvia Hull incident is in no sense proper rebuttal. It was gone into in long detail in the case of the Board in chief.

Mr. Hogsett: Your Honor, I ask you to just stop for a second and think if this is rebuttal—everything is rebuttal that pertains to the case in any way.

Trial Examiner Batten: Of course, my idea of the Sylvia Hull incident is this:— I tried to, I think, in my talk here a month or so ago, indicate I did not think it was [fol. 6179] within the offers of proof upon which I was taking testimony, but I don't remember whether Mr. Tyler, or who it was, convinced me that I was wrong. I know Mr. Langsdale very strenuously opposed it and said it was a closed book.

Mr. Hogsett: I ask you to draw the line somewhere, if the Examiner please.

Trial Examiner Batten: I am inclined to agree with Mr. Langsdale, that, so far as what happened or transpired that day, there is sufficient testimony in the record. Now, we had a lot of it in the last hearing. It is true that all of the witnesses which Mr. Ingraham and Mr. Tyler examined—all, as I remember it, testified about the Sylvia Hull incident.

Mr. Tyler: I object, Your Honor. The question isn't whether the evidence is sufficient; the question is, whether there has been an opportunity to produce it at the proper place.

Now, if the Board can go over that incident, producing new witnesses about it, then the respondent and the intervenor should be allowed to produce all of the witnesses they can find against it, which obviously would be improper.

It is repetition of what the Board tried to prove in its original case.

Trial Examiner Batten: Didn't you figure that was what I meant by the use of those terms, Mr. Tyler?

[fol. 6180] Mr. Tyler: No. I thought the word "sufficient" meant the Examiner felt, if there wasn't enough evidence on it the first time, you would admit more of it this time.

Trial Examiner Batten: If that is what you understood, I'm sorry I didn't state myself more clearly.

Mr. Langsdale: If the Examiner please, my position is—and I take it, Mr. Hogsett's— (Addressing Mr. Hogsett.) Did you examine the first witness, whoever it was?

Trial Examiner Batten: You mean, today?

Mr. Langsdale: No. When this hearing started.

Mr. Hogsett: Mr. Ingraham examined all of the witnesses. But their first witness, I believe, was Mrs. Cooper, was it not?

Mr. Ingraham: That is correct.

Mr. Langsdale: They commenced to interrogate her about the Sylvia Hull incident, and it was my position that that was not within the scope of the remand, that the only things within the scope of the remand were the things offered and denied by the Examiner. The Sylvia Hull incident was gone into thoroughly in 1939, and we put in the testimony in the Judge Miller trial, and they put in their testimony on that, and that was a closed book. And it was never maintained by the Circuit Court of Appeals that that should be gone into again, but they have done it with every witness they have put on the stand now.

[fol. 6181] The question occurs to me, if we have a right to keep the book opened?

Mr. Hogsett: Mr. Langsdale correctly said this afternoon, there are two classifications of defense evidence—

Mr. Langsdale: Of Mrs. Reed's evidence.

Mr. Hogsett: Yes. One is of a defensive character, and the other is, as he contends, new matter. Now, for the first time, I find myself in genuine accord with him on a legal proposition.

Trial Examiner Batten: You had better be sure of it, because it will be in writing.

Mr. Hogsett: I am in accord with that legal proposition. I admit that, as to any new matter that any of our witnesses have given, they are entitled to rebut. I haven't denied that. You haven't heard me say a word that even squinted of opposition to that, but this Sylvia Hull incident evidence is in no sense new matter.

Mr. Langsdale: Now, my remark quoted by Mr. Hogsett was with reference to Mrs. Reed's testimony.

Mr. Hogsett: But it is true, as a legal proposition.

Mr. Langsdale: The Examiner admitted the testimony of Mrs. Reed, not because of the remand, but because she had been ill and unable to attend this hearing before. It wasn't for the certain testimony she gave, and if he had admitted it for that reason, I would have objected to [fol. 6182] it on the ground that it was a closed book. But she opened the whole book, beginning with 1941—

Trial Examiner Batten: Perhaps I made a mistake in accepting her testimony, its not being within the remand.

Mr. Langsdale: I am not objecting to it.

Trial Examiner Batten: No. But I say, perhaps I did.

Mr. Langsdale: When I characterize Mrs. Reed's testimony as falling into two classifications, one as defensive, which she would have had a right to give had she been at the other hearing, and which you admitted because she wasn't able to be at the other hearing, and the other, the new matter, which we have a right to reply to now, that doesn't apply to other witnesses. No other witness had any right, in my opinion of the remand, to go into

something that had been closed and both sides had a full opportunity to be heard on in the last hearing.

Trial Examiner Batten: As I recall, both witnesses presented by the Board so far have been permitted to testify about the matter.

Mr. Bangsdale: Yes.

Trial Examiner Batten: You may proceed, Miss Weyand.

Is there a question pending?

Miss Weyand: Will you read the last question please?

(Thereupon, the last question was read by the reporter, as follows:

"Do you recall what happened that morning?"

[fol. 6183] Miss Weyand: The morning of the Sylvia Hull incident.

A. Well, it was in the morning that this demonstration, or whatever the commotion was, took place, and there was girls come from other floors, and when I first noticed it, there was just a bunch of girls crowded around over in the corner where she was.

I didn't even know who the girl was then, who the trouble was over, until someone told me. And I went over—I didn't get real close to her, but close enough that I could tell what was going on, and there was a commotion over there.

I came back over to my section. I happened to be in 415, right there in front of the door, and then I saw them take her out.

By Miss Weyand:

Q. Did you hear anything said, or any noises of any sort?

A. Yes. I heard booing and loud talking, and the girls, from what I could gather, were talking to her. I wasn't close, and there were so many girls around her, you couldn't hardly get a glimpse of her, but I did see them taking her out.

Q. Do you know whether she was continuing to work?

A. You mean, while the demonstration was going on?

Q. Yes.

A. She was trying to, but there was so much talking, and talking to her, that she couldn't work, and she was crying.

Q. Do you know whether the power on her shaft was turned off?

[fol. 6184] A. I saw the power turned on, but—you know, just walk up and turn the switch on. And one of the girls would turn it off, and somebody else would turn it on, and somebody else would turn it off. It was turned off and on about three different times while I happened to be over there.

Q. Did you know Fern Sigler?

A. I didn't know her even when I seen her. I didn't know the girl at all.

Q. Did you go down to the sixth floor on the day of the Sylvia Hull demonstration?

A. Yes. I understood there was some commotion down there, so out of curiosity—some of the girls went down, and I went with them.

Q. What did you see on the sixth floor?

A. There was girls bunched up around her machine, and loud talking—talking to her. I didn't stay down there but just a few minutes and came back.

Q. Do you know whether there was any deduction from your pay for the time you were away?

A. Not that I know of.

Q. Do you know whether the instructors on the eighth floor made any effort to get the girls to work during the time that demonstration was going on?

A. It seems to me our power was turned on for us to work—so we could work.

[fol. 6185] Q. Do you remember who your instructor was on that day?

A. To the best of my memory, I believe it was Etta Dorsey. I feel sure that's who it was.

Q. Did you attend a meeting around the time the strikes were going on at the Missouri, Gernes, and Gordon plants, at which Mrs. Reed spoke? A. Yes.

Q. How were you notified [at] that meeting?

A. We were always notified of our meetings through our instructor, or, along towards the last, by i. d. m.'s.